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Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable LINCOLN CHAFEE, a Senator from the State of Rhode Island.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal Spirit, who has given us the rich heritage of this good land, You know our needs for this day better than we do. Help us to listen to the quiet direction of Your Spirit. Consecrate our speech to Your service, that we may not sin with our tongues.

Keep us free from all untrue and unkind words. Remove from us all anxiety, and give us moral and physical courage for the living of these days.

As Your Senators today seek to do what is right, make Your way clear to them. Strengthen them to face the pressures that come with working for freedom. When their day's work is done, may they feel Your smile and hear Your whisper of ''well done.'' And, Lord, bless our military men and women. Let them this day feel Your presence. We pray this in Your Holy Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable LINCOLN CHAFEE led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 3, 2003.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable LINCOLN CHAFEE, a Senator from the State of Rhode Island, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mr. CHAFEE thereupon assumed the Chair as Acting President pro tempore.

The ACTING PRESIDENT pro tempore. In my capacity as a Senator from Rhode Island, I suggest the absence of a quorum.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

ORDER OF PROCEDURE

Mr. SESSIONS. Mr. President, I ask unanimous consent I be permitted to speak for up to 15 minutes in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

CLASS ACTION LAWSUITS

Mr. SESSIONS. Mr. President, I will discuss this morning a very important issue of legal reform that is needed in the United States. I have been a practicing lawyer for most of my adult life and have litigated in quite a number of different forums. I believe in the legal system. It is critical for America's vitality. There is no doubt in my mind the strength of this American democracy, the power of our economy, our ability to maintain freedom and progress is directly dependent on the superb legal system of which we are a part.

We have a magnificent number of lawyers around this country. Some have been criticized, and rightly so, but for the most part they are good, aggressive attorneys utilizing the laws that are available.

This Congress passes laws involving litigation in America. It is incumbent upon us as the years and centuries go by to periodically review what is happening in our courts. We ask ourselves, are the results that are occurring effective? Are they furthering our national policy, correcting wrongs, punishing wrongdoers, generating compensation for those who suffer losses in a fair and objective way?

Anyone who knows much about the system today knows there are some problems. Lawyers are utilizing principles of law that enhance the problem. There are court decisions that allow them to go further than they have before. As a result, everyone is paying huge amounts of money for insurance. Americans buy a homeowner's policy with an umbrella in case someone sues them. Americans in business review their insurance and liability policies on a regular basis, frequently calling insurance companies and asking for more coverage, more protection. Without even asking for more coverage and more protection, the rates are going up all over America.

One matter we need to talk about and act on is class action lawsuits. A bill to reform class action lawsuits has been considered for a number of years in this body. It was considered in the Senate Judiciary Committee of which I am a member. After several years of

discussion we voted it out this year by a 12–7 vote, a bipartisan vote. Several Democrats and all Republicans voted for it. It is a bill that is responsible. It is restrained. It will do the job in many of the cases where abuses are occurring. It is the right thing to do. It can help balance the scales a bit in litigation. It will help fulfill the responsibility of this Congress to monitor how our laws are working in the real world. As a result, we can fix the problems out there.

What is a class action? A class action is a litigation filed by a plaintiff's attorney on behalf of not just one alleged wrong person, but on a class or a group. The lawyer files the case in a court against a defendant, or maybe more than one defendant, on behalf of a large group of plaintiffs who he alleges suffered similar losses and therefore the case should be tried in one forum, a verdict rendered, and each plaintiff then told what they ought to get as compensation for the losses they have incurred.

A class action is good. Some people have been so upset about class action abuses they think we ought to throw the baby out with the bath water. That is not true. A good class action is good for everyone. For example, if a national company made a defective product and shipped it all over America and they were negligent in doing so, they ought to be responsible for the damages that product has caused in America. For every person, maybe hundreds of thousands, even millions to file a lawsuit in every circuit court in America makes no sense. We have a vehicle by which it can be brought in a single court, and it can go forward from that point.

Where can you file? You can file, amazingly, in almost any venue in America. The plaintiff can search this country over to select the single most favorable forum for his lawsuit and the single most favorable district in America. That is a lot to choose from. That is one of the problems we have with class actions.

There are a number of other problems. Lawyers are alert to this. Some specialize in this kind of litigation. They identify something they think is wrong. Maybe no victim has even complained about it. They identify the victim and talk them into filing the lawsuit. They pay little attention to the plaintiff they name as the lead plaintiff in a lawsuit.

I know of one case in Alabama where the defendant died, and was dead for quite some time, and the lawsuit just went right on as if nothing had ever happened. There was not even a named plaintiff living as the central plaintiff in the lawsuit.

But that points out to me that the case becomes, after a period of time, driven by the plaintiff's lawyer and driven by the interests of the defendant. And if it is filed in a smaller rural circuit court, the judge could be overwhelmed with a huge amount of litigation and want it off his docket.

So really the abuse occurs like this: The plaintiff is in a situation where each victim is only entitled to a little bit of money. I will talk about some of those cases in a little bit as to what kind of verdicts get rendered. So they get a little bit for 200,000 plaintiffs, and then they get their fee—multimillion-dollar fees.

The judge is happy because this case could have gone on for years and clogged up his busy circuit court docket in rural Illinois or Alabama or Texas. He is glad to have it gone.

The defendant wants the case gone. The defendant has no responsibility to the individual plaintiffs in the class. The defendant wants the case gone. So what does he do? He will agree to pay the attorneys very high fees and the plaintiffs themselves small amounts of compensation to get rid of the case. And it goes off the docket which is completely wiped clean.

So there are some problems that are out there, and it is not healthy. We have had a string of those cases that have occurred around the country that have not been becoming of the legal system.

The lawyers' primary interest should be to their clients. Courts should have a primary interest in seeing that justice is done. Defendants ought to pay for what they are required to pay and the losses that have occurred. But defendants ought not to be intimidated or coerced or extorted really by the threat of a major lawsuit going on for years in which their company is abused and abused in court for some minor wrong they are willing to pay to correct and willing to compensate the victims for.

So they are in court, and they are willing to pay. They want to fix it, but, no, no, that is not enough. They want punitive damages and more litigation time. And just to get rid of it, defendants agree to pay, and they agree to compensate. Oftentimes—and there are quite a number of cases that show this—the lawyers are the ones who really get the compensation, and not the victims.

In many of the cases, the liability is very dubious, but the companies feel obliged to pay something to get out of the lawsuit, anyway. The damages are very speculative. Sometimes damages have never even really been proven.

I want to mention one more thing about the venue. Let's assume a major automobile company designed an automobile—and they have had cases of this kind—and the seatbelt is defective, and maybe it poses a risk or maybe, when you put it on, it bruises your hand and causes a blister or otherwise is designed in a way that is not as fine as it should have been designed.

Let's say someone wants to file a lawsuit against one of the major manufacturers in Detroit. They do not have to file that lawsuit in Detroit. They can go all over America and find somebody who was damaged by that seatbelt. And there will be that kind of vehicle in every county in America, no doubt about it. They can go to counties in which there is only one sitting circuit judge who they happen to know who perhaps is favorable to plaintiffs' cases. They can pick the county in America they think has the most favorable jury for these kinds of cases, and they can then file their suit there and begin this kind of action we have seen here. Not only can they do that, they do that.

There is a county, I believe in southern Illinois, where routinely cases of this kind are chosen to be filed out of the whole United States because they believe it is favorable. The same has been true—''60 Minutes,'' I believe, or one of the shows on television has shown this to have occurred in Mississippi. They named the county and interviewed the people there, and they talked about the verdicts that are rendered there. And it is not healthy.

They have done it in Alabama, my home State. We passed some tort reform, and Alabama laws have improved, but there are still cases being filed there and in other States. They choose the most favorable forum. This is not what our Founders had in mind.

Let me read from the Constitution, the part of the Constitution that is relevant to this issue. It is article III, section 2, dealing with the courts. It talks about the power of the Federal courts and what their jurisdiction is. It says:

> The judicial Power [of the United States] shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, . . .

And it goes on to say:

> to Controversies to which the United States shall be a Party;—to Controversies between two or more States;—between a State and Citizens of another State;—between Citizens of different States; . . .

Now our Founding Fathers had thought about this issue, and the issue is: If you have a lawsuit filed between a person from Alabama and a defendant from Massachusetts, maybe at the time of the founding of our country and even to this very day, the person in Massachusetts might not be comfortable having his case tried in Alabama or vice versa. So they say: What do you do if you have a lawsuit between two States? The home-State plaintiff, for example, can choose the forum. He can have a friendly court. Maybe he knows all the jurors on the jury in the jury box. Maybe the judge goes to church with him. Maybe they are best friends and play golf together. And he is going to sue a fellow way off there, who has a lot of money, and he will just have a little friendly help for his local constituents.

That is what the Founding Fathers thought about. In football we call it home cooking, or in baseball, if you get adverse opinions by the umpire against a visiting team. So it is home cooking. They prevented that. They put it in the Constitution. They would go to Federal court where judges are not elected judges but they are lifetime-appointed

judges. Any appeal from their ruling goes to the U.S. Supreme Court in Washington, DC. Why? Because that would be a more objective, fair forum.

Now, good and clever plaintiff lawyers have learned if they sue General Motors or Ford or Chrysler, who are headquartered maybe in Detroit, on behalf of an Alabama or an Illinois citizen—then that case is going to be in Federal court, right? That is what the Constitution says—but, no, they will also add the local Ford dealership in Illinois or Alabama or Mississippi or Colorado, wherever they file the lawsuit that they choose is the best place. They will name one defendant, at least, who is in that same State, and it breaks diversity under case law, and the case gets tried in the local State.

So the principle there is important. In a case involving a class action, in which you are involving hundreds of thousands of plaintiffs all over America in every State in America, and the prime defendant, the central, responsible defendant is an out-of-State corporation, our Founding Fathers, I have no doubt, believed that should be in Federal court.

So I say to my friends who are concerned about federalizing litigation—and they believe States ought to be able to set their own rules for litigation—I really, truly say to you, this is not one of those cases in which the Federal Government is taking over things they should not take over. The Constitution contemplated those kinds of cases would be in Federal court, where you have a lifetime-appointed Federal judge, whose appeal will be to a court of appeals of a whole region, and whose final appeal will be to the United States Supreme Court, the Court that sits over the entire country.

So that is why I think we have had so much success in gaining support for this reform. I believe we can do that. And for a whole lot of reasons, under the Federal laws we are able to pass, and under the leadership or jurisdiction of a Federal judge, we will have far fewer bad verdicts. We will reduce the ability of the plaintiff to choose the most favorable forum in the whole United States in which to file a lawsuit.

Let me mention to you some of the cases. There are a lot of them that have been out there that caused difficulties and have caused an uproar and a concern.

The Toshiba case, Shaw versus Toshiba Information Systems, was a class action filed in Texas complaining of an entirely theoretical defect in the floppy disk controllers of Toshiba laptops. They are sold all over America. Why did they choose a county in Texas to file a lawsuit? They were able to do that in a State court, even though the asserted defect had never resulted in injury to any user of the defendant's product. Not a single one of the customers had ever reported a problem due to this defect. Facing a potential liability of $10 billion, what the plaintiffs claimed, Toshiba felt they needed to settle the claim, and they did.

This was the result: The class members received between $200 and $400. In cash? No; $200 and $400 off any future purchases they may make from Toshiba. They received no compensation. The two named plaintiffs in the lawsuit, individuals who bought this Toshiba laptop, received $25,000 each. And the attorneys, what did they receive? One hundred forty-seven point five million dollars. Tell me that is legitimate. Not so.

Here is one with Blockbuster. A class action suit was filed in Texas—another Texas case—which alleged Blockbuster had unfairly charged for overdue movie rentals. They had overcharged people when they were late turning in their video rentals. They were faced with 23 lawsuits in 13 other jurisdictions around the country. This was a class action lawsuit. They decided they better settle the case. In the settlement, the trial lawyers received $9.25 million in fees and expenses. The individual plaintiffs who were alleged to have been wronged received two free movie rentals and $1 off coupons for future movie rentals. They got nothing, no money paid out of pocket directly of the $9.25 million. I suspect some of those plaintiffs didn't even know they were being named as a plaintiff in the case. They got a $1 coupon, threw it in the trash can, just like you throw them in the trash can that come out of your newspaper. You don't have time to fool with them.

Here is one with Sony Pictures. Typical of how these things can develop. In advertising for their films, Sony wrongfully created a fictional film reviewer. This fictional film reviewer fabricated some quotes. Despite Sony's numerous apologies and offer to pay $350,000 to settle the inquiry by a State attorney, a class action was filed. Sony was willing to pay. They knew they had messed up. They were willing to pay. That is so often the case in these matters. The lawyers then went out and found two moviegoers to head the class of plaintiffs. They claimed they were jousted into seeing ''A Knight's Tale,'' the movie, by ads quoting this fictional reviewer calling the films lead actor the year's hottest new star.

It was all bogus, which most of us know those ads are bogus anyway. The attorney originally sought refunds on the ticket prices but later demanded $4.5 million to settle the case.

There is a host of other cases. I could go on.

Aetna, a Federal judge awarded $24 million in attorney's fees out of an $82 million settlement in a class action against Aetna. There was one against Golf Digest, Cell Phones. The Bank of Boston case, which involved my State of Alabama, was pretty egregious also. A class action was filed by a Chicago attorney against the Bank of Boston, and they decided to file it in Mobile County, AL. That is odd, is it not? The case alleged that the bank did not promptly post interest to real estate escrow accounts. The settlement limited the maximum recovery for the class members to $9. After the State approved the settlement, the bank disbursed more than $8 million to the class action attorney in legal fees, and credited most of the accounts of the victims with paltry sums. The legal fees, equal to 5.3 percent of the balance in each account, were debited to those accounts. So the attorney's legal fees were taken out of the bank accounts of the class victims. A lot of these people did not even know a class action had been filed, let alone that they owed an attorney a fee for the $9 in recovery he had received for them.

What is even worse is that for a number of accounts, the debit to their account exceeded the credit they obtained in the settlement, meaning that the attorney's fees that came out of their account exceeded the $9 benefit they had received from the class action settlement.

For example, Dexter Kamowitz of Maine, who did not initiate the lawsuit against the Bank of Boston and probably knew little about it, received a credit of $2.19 under the class action settlement. At the same time the class action attorney debited his account for $91.33 for legal fees, producing a net loss of $89.14. Such results, as might be expected, produced outrage from class members in other States around the country. Judge Frank Easterbrook, Circuit Judge of the Seventh Circuit, asked this question: What right does Alabama have to instruct financial institutions headquartered in Florida to debit the account of citizens in Maine and other States?

That is a good question. How can a circuit court in Alabama order a bank headquartered in Florida to debit the account of a victim in Maine? That is bizarre. That is the kind of thing we are dealing with.

This bill has received great scrutiny. It is not going to end class actions. It is going to end the abuses of class actions. It will take only the biggest, clearly interstate cases of class actions. It will allow them to be tried before a more neutral forum of a Federal court. It will provide some controls in the way these cases are handled, the way attorney's fees are set. It will control the abuses of coupon-type settlements. It will do a lot of things that are very healthy and proper and appropriate and overdue.

That is what we need to do in this matter. Class actions will continue. They can continue in State court, if it is primarily a State class. They can continue in Federal court, if it is primarily a Federal class. That is the right thing for us to do.

We need to bring it up in the Senate before this session is over. If we do that, we will have served our constituents well. We will have monitored the legal system that we set up, control, and regulate by the laws we pass. We will have responded to abuses and created a system that is fair and more

just for the plaintiffs, the defendants, and the particular plan.

I thank the Chair, and yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from New Hampshire is recognized.

Mr. GREGG. What is the regular order?

The ACTING PRESIDENT pro tempore. The regular order would be to lay the bill before the Senate.

Mr. GREGG. I thank the Chair.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR IRAQ AND AFGHANISTAN SECURITY AND RECONSTRUCTION ACT, 2004

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 1689, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1689) making emergency appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes.

Pending:

Byrd amendment No. 1818, to impose a limitation on the use of sums appropriated for the Iraq Relief and Reconstruction Fund.

Byrd/Durbin amendment No. 1819, to prohibit the use of Iraq Relief and Reconstruction Funds for low priority activities that should not be the responsibility of U.S. taxpayers, and shift $600 million from the Iraq Relief and Reconstruction Fund to Defense Operations and Maintenance, Army, for significantly improving efforts to secure and destroy conventional weapons, such as bombs, bomb materials, small arms, rocket propelled grenades, and shoulder-launched missiles, in Iraq.

Reid (for Stabenow) amendment No. 1823, to provide emergency relief for veterans healthcare, school construction, healthcare and transportation needs in the United States, and to create 95,000 new jobs.

Mr. GREGG. Mr. President, I wish to speak briefly. I understand the Senator from North Dakota is also going to speak. I want to talk on this piece of legislation but, more importantly, on the overall approach we take toward fighting terrorism as a nation.

First off, as to this bill, which is obviously an extraordinarily expensive bill—over $80 billion, much of which goes to support our forces in Iraq, which is absolutely critical, and some of which goes to assisting in the rebuilding of Iraq—many of my colleagues and others have questioned the dollars going to the rebuilding of Iraq and whether that is an appropriate way to spend American tax dollars. I think, however, we have to look at this issue not from the standpoint of whether it is benefiting Iraq but whether it is benefiting us, the American people.

I don't think there is any question but that it benefits the American people. Our purpose here is to defeat terrorism. Our purpose here is to undermine the capacity of those people who would use violence against Americans and against our system and against our Nation. We learned from 9/11, regrettably, that there are, unfortunately, groups out there who subscribe to what is known as Muslim fundamentalism, who are willing to pervert the Muslim faith, and who wish to pursue actions of violence against us as a nation, and against Americans as people, simply because we exist. For whatever reasons, they see us as their enemies, and there are a variety of reasons, which I will not go into. They obviously have the capacity and have shown their willingness to do us damage and harm. We have to respond to that.

Fortunately, we have a President who understands this—understands it in a way that I think many of us don't fully appreciate. I happen to, however, greatly admire it. The fact is, in President Bush we have someone who is very focused on the issue of protecting the United States and all Americans, defeating the threat of terrorism, and finding terrorists and bringing them to justice before they can do us harm. As part of that effort, there is a philosophy that I think is very appropriate that we are pursuing as a nation, which is that we will go out and find the terrorists before they can find us. We will kick over the rocks under which they hide and bring them to justice in whatever manner is appropriate—before they can get out from underneath the rocks under which they hide and plan to attack us. The basic theory is to cause the terrorists to worry about where they are going to sleep tonight rather than to be thinking about whom they are going to attack tomorrow.

It requires an aggressive international policy, but it is a policy directed at protecting us, Americans, across our Nation, giving us a better opportunity of avoid another 9/11, another attack on our country on our soil. As part of that effort, we have replaced a dictatorial, repressive, genocidal, maniacal regime in Iraq, a regime which clearly represented a threat to its neighbors and was a breeding ground for terrorists and a potential, if not real, supporter of those who would do us harm in the United States.

The strategy of the war was brilliantly executed by our military, our men and women. We have to admire their courage, their expertise, and the manner in which they comported themselves in Iraq. Their success militarily is in large part due to the fact that we are willing to spend our national treasury to support them, and we must continue to do that. That is what this supplemental is about.

So supporting our troops with the dollars they need and the equipment they require is a given. There is no one in this body who would question that.

The second part is the rebuilding of Iraq. Why is that important to us as a nation? Well, if we are going to undermine the fundamentalist Muslim terrorist threat, we must undermine their breeding ground, where they are able to recruit, and their philosophy for recruitment.

We have been extremely successful as a nation so far, I believe, in pursuing a tactical war against terrorists, and we can continue this tactical war and we will probably have to continue it for years to come. By that I mean finding the terrorists, following the dollars, tracking them down, using our expertise, our intelligence capability, and our military to neutralize their ability to attack us—whether it is in Afghanistan, Iraq, Buffalo, or Seattle—finding them before they can do us harm, eliminating their resources and sources of resources, and working an international coalition of law enforcement agencies and military forces that is capable of doing them physical harm before they can do us physical harm.

That is a tactical approach. It is one that is being pursued with great aggressiveness at all sorts of different levels—internationally, of course, and obviously in Iraq and Iran, but across the globe, such as in the Philippines and India and Pakistan, and domestically with the creation of the Homeland Security Department and the restructuring of our own domestic law enforcement community.

But that is tactical. That means you find the individual or the cell, you find the group of fundamentalist terrorists who are gathered together, you get the information on where they are, you disrupt them and, if you can bring them to justice, you do. That is tactical. That is not going to resolve the problem for us because, regrettably, no matter how you look at this, if you are honest about it, there is a cultural and a religious issue involved.

There are a billion people in this world who subscribe to the Muslim faith. It is a strong and good faith with an incredible history. But if only 1 percent of those billion people are attracted to the perversion of that faith and follow a Muslim fundamentalist view of the world—terrorist view of the world—that is 10 million people. That is potentially 10 million people who want to do us physical harm. Hopefully, it is not that high.

So if we are to pursue a lasting resolution of this issue, a tactical approach will keep us, hopefully, safer, but it will not resolve the underlying problem. We need much more of a strategic approach, something that looks at the forces which create the threat and undermines those forces. That is where the issue of addressing the reconstruction of Iraq comes in. There are a variety of ways we can address people who are members of the Muslim faith, especially in the Middle East and show them that we, as a nation, are not a threat to them but are actually an avenue of opportunity. But today those options don't really exist in the Middle East.

If we can prove to people who subscribe to the Muslim faith and might

be attracted to a fundamentalist terrorist approach that democracy works and is a great option for them, the market-oriented approach works and there is great opportunity for them, that education that encompasses the expansion of the mind relative to not only Western values, but Eastern values, and the issues of especially science and its potentials is of great value, then we will have created an opportunity for people to take a different look at what we stand for as a nation and say: Maybe rather than being a threat, you are an avenue of opportunity.

That is where Iraq comes in. If we are able to settle Iraq over the next 3 to 5 years in a way which allows it to grow as a democracy, in a way which allows it to grow as a market economy, in a way which allows its people, especially its children, to attend schools which teach a variety of values and especially the opportunities which come from quality education, if we are able to produce such an Iraq, it will be a shining light in the middle of the Middle East. It will be a place that people can look to and say, My goodness, democracy does work; market economies do mean more prosperity for my family and me; balanced education is a good thing. We will have set up a natural magnet to attract a positive view of these forces which have done so much for us as a nation and for the West, specifically democracy, market economies, and education.

Today that does not exist really in the Middle East, but this is our opportunity, an unintended consequence possibly of this war in Iraq, but clearly a potential consequence of significant and positive opportunity to create an Iraq, one of the larger nations in the Middle East and one of the wealthier nations in the Middle East, a nation with exceptional history and with a people who have historically been extraordinarily productive, to create a nation which realizes the dreams of freedom, opportunity, economic well-being, and education, which most people in the world subscribe to and desire, and that is why stabilizing Iraq is so important. If we accomplish that, we will fundamentally undermine the philosophy of the Muslim fundamentalists and their message to the Middle Eastern population, which is that America is a threat, an enemy, and that Americans must be destroyed and our culture must be attacked.

It will benefit us Americans in our country; it will benefit us in New Hampshire; it will benefit us in New York; it will benefit us in Pennsylvania; it will benefit us in California to have a nation in the Middle East which is a viable option to the threat and the message of fundamental Islam that goes to this whole strategic issue.

As we pursue our fight against terrorism, we have to have a two-track approach, in my mind. One is tactical, which I outlined. That is what we are doing in Afghanistan, obviously, and in Iraq with our military. It is what we are doing in working to break up the money in the European countries and to find the cells in the United States, and what we have to continue to pursue aggressively through the Department of Homeland Security, the FBI, and the CIA.

At the same time, we need to have a strategic track. It has to go beyond just reconstructing an Iraq and making it a democratic nation. It has to go to messaging. It has to go to communication. It has to go to education. We need to spend significant thought on planning and probably treasury on the issue of a strategic approach to set up different initiatives which will have the effect of undermining the capacity of the Muslim fundamentalists to recruit and to make their case against America by communicating more effectively throughout the Middle East and also across other Muslim nations in the southeast, such as the Philippines and Indonesia, and Pakistan, by creating initiatives which encourage market-oriented approaches, which encourage leaders who subscribe to democracy, which encourage leaders who subscribe to education.

It has to be more than just a haphazard exercise. It actually has to be a structured exercise. It is much more difficult, much less tangible than a tactical approach, but it needs the same type of attention and energy.

We are not doing that right now as a nation. We are certainly not doing that as a government, in my opinion, and we as a Congress should be thinking about how we can do this.

As we move down this road, I believe this is something to which we have to pay significant attention, but clearly, one step in this exercise of a strategic approach is to assist in the creation of a democratic, market-oriented nation in the middle of the Middle East, specifically Iraq, which subscribes to the teaching of its young a value system which is consistent with the beliefs of freedom and democracy and market forces. That is why it is so imperative that we make this investment in Iraq. It is not about protecting them. It is not about rebuilding Iraq, although that is certainly an outcome of it. It is about creating an opportunity to undermine the sources which breed the fundamentalist Islamic movement and, thus, lessening the threat against Americans and our culture.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Missouri.

Mr. BOND. Mr. President, I thank my colleague from North Dakota who has an amendment and a longer statement. I ask unanimous consent that he be recognized after me to offer his amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BOND. Mr. President, is there an amendment pending?

The ACTING PRESIDENT pro tempore. The Reid-Stabenow amendment is pending.

Mr. BOND. I ask unanimous consent that amendment be temporarily set aside so that I may offer an amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 1825

Mr. BOND. Mr. President, I send an amendment to the desk on behalf of myself and Senator MIKULSKI and ask that it be immediately considered.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from Missouri [Mr. BOND], for himself and Ms. MIKULSKI, proposes an amendment numbered 1825.

Mr. BOND. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide additional VA Medical Care Funds for the Department of Veterans Affairs)

At the appropriate place, insert the following:

DEPARTMENT OF VETERANS AFFAIRS
VETERANS HEALTH ADMINISTRATION
MEDICAL CARE

For an additional amount for medical care and related activities under this heading for fiscal year 2004, $1,300,000,000, to remain available until September 30, 2005.

Mr. BOND. Mr. President, this is an amendment that Senator MIKULSKI and I believe is very important to provide adequate funding for medical care for the Veterans Affairs Department. This amendment provides $1.3 billion in emergency funding for the Department of VA medical care account which truly is an emergency.

This amendment addresses the medical care needs of returning servicemembers from Iraq and Afghanistan who will require medical care service from the VA.

As many of my colleagues know, the VA cannot currently keep up with the demand of the current veteran population, as illustrated by the tens of thousands of veterans who have been told to wait at least 6 months to get an appointment. Even more distressing is the fact that many of them may have to wait up to 2 full years, and that is unacceptable. If the VA cannot currently help those who are in the system, how will they be able to help those veterans returning from Iraq and Afghanistan?

In the legislation before us today, we have provided emergency funds for the Department of Defense to fight these wars and reconstruction funds to ensure that we win the peace, we secure the peace and bring our troops home. I support these funds. They are vitally needed. I hope we can get them approved when we return. However, I believe we also need to ensure that when

our troops do return home, the Government will be there to treat their medical care needs. If we are willing to provide emergency funding to fight the wars, we must be willing to provide emergency funding to meet the medical care needs to treat the injuries and the wounds suffered by our valiant heroes in the wars. In other words, we must ensure that there is a continuum of care for our service members from basic training to deployment to discharge.

Let me illustrate the current pressing and urgent needs for these emergency funds. According to a September 2, 2003, Washington Post article, the number of service members wounded in action in Iraq totals 1,124 since the war began in March. This Post article states:

> The rising number and quickening pace of soldiers being wounded on the battlefield have been overshadowed by the number of troops killed since President Bush declared an end to major combat operations May 1.

USA Today, in this past Wednesday's edition, has reported that at least seven times as many men and women have been wounded in battle as those killed in battle. This is a copy of that article, and it is entitled ''Trip Home is Just Start of Road Back.''

I am not going to offer these articles for the RECORD but I would refer those publications to my colleagues who are interested. We know the wounded are arriving in Washington every week. I point out these numbers do not include military men and women who are returning from Afghanistan and other parts of the world after fighting the war on terrorism.

According to the VA, some of our returning service men and women are currently being served through VA–DOD sharing agreements. Others, such as PVT Jessica Lynch, of whom we all know a great deal, are being discharged and turning to the VA for specialized services. This level of demand for VA services has not been foreseen or anticipated.

Further, we know that overall demand for VA medical care is not going to lessen. We have already seen the VA medical care system being overwhelmed by the staggering increase in demand for its medical services. Since 1996, the VA has seen a 50-percent increase in growth, or 2 million patients in total users of the medical care system. Moreover, enrollments have increased by some 3.1 million since 1999 alone, and the VA projects that its enrollments will grow by another 2 million patients from a current level of 7 million to 9 million in 2009. This is a historic and unprecedented increase in the level of service.

Again, I urge my colleagues to support these emergency funds. At a time of war with thousands of injured troops returning from battle, it is clearly an emergency to include these funds. It is our moral responsibility to ensure that we provide adequate resources to the VA to meet the vital medical needs of our veterans. If these emergency funds are not included in the bill, the VA will have enormous difficulties in treating veterans returning from Iraq and Afghanistan, due to the current backlog of veterans waiting for care. Without those funds, those waiting veterans will wait longer for medical care and the VA will be forced to deny medical care to another 585,000 veterans. I cannot accept these outcomes. I do not believe my colleagues will accept these outcomes. This is medical care they have earned through the risk of life and limb, and all too often their long-term health.

I ask my colleagues to think about our service members who have already returned from service, our service members who are continuing to serve and those who want to serve. If we do not provide these funds, what kind of message does this send to those currently fighting overseas and those who will be sent overseas?

I hope my colleagues agree with me that we want to tell these men and women that we will not turn our backs on them and that we will keep our promises to them.

I thank the Chair and I thank my colleague.

Mr. DORGAN. Will the Senator yield for a question?

Mr. BOND. Yes.

Mr. DORGAN. Mr. President, I ask the Senator from Missouri if he would add my name as a cosponsor to the amendment.

Mr. BOND. I would be happy to do so. I ask unanimous consent that Senator DORGAN be added as a cosponsor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BOND. I believe there will be others who wish to do so. I thank the Chair and I thank my colleague from North Dakota.

Mr. President, I rise in support of the Bond-Mikulski amendment. This amendment is simple and straightforward. It would add $1.3 billion to the Iraq and Afghanistan supplemental for veterans' medical care.

Our men and women serving in Iraq and Afghanistan have my steadfast support, and so do those men and women who fought before them. Our veterans need to know that America is with them, and that we owe them a debt of gratitude. Congress should show that gratitude with deeds, not just words. That means making our troops and our veterans a priority in the Federal checkbook.

As the ranking member on the VA–HUD Appropriations Subcommittee, my guiding principle for the VA budget is that promises made to our veterans must be promises kept. I believe this means no membership fees or toll charges on veterans to get health care or prescription drugs, and no waiting lines for veterans to get medical care or to get their claims processed.

Under a law passed after the Persian Gulf war, VA must give priority to returning troops for immediate medical care. The Veterans Programs Enhancement Act of 1998 requires VA to provide 2 years of medical care benefits for returning servicemembers. This law was originally passed to meet the medical care needs of veterans who served in the first Persian Gulf war. The law applies to servicemembers who are in Iraq now.

But the VA medical care system is under tremendous stress. During August, I traveled to VA clinics across Maryland. I saw dedicated staff providing quality medical care. But they are stretched to the limit.

Nationally, there are over 100,000 veterans waiting longer than 6 months to see a VA doctor. Some veterans are waiting as long as 2 years. The wait for specialty care like spinal cord injury care, blind rehab, and prosthetics can be even worse. The Blinded Veterans Association tells us that there are 2,600 veterans waiting up to 1 year for admission into a blind rehab center.

Our veterans didn't stand in waiting lines when they were called up to serve our country. They shouldn't have to stand in line or pay toll charges to get the medical care they deserve. The Bond-Mikulski amendment is necessary to keep our promises to our Nation's veterans by ensuring that soldiers returning from war, and the veterans who fought before them, will get the medical care they deserve.

The President's budget proposed a new $250 annual membership fee for veterans, and increased copayments for veterans' prescription drugs and visits to the doctor. Senator BOND and I have worked together on a bipartisan basis this year to reject these proposals. This funding will ensure VA has the resources necessary to meet the needs of our veterans and returning troops.

I thank Senator BOND and urge my colleagues to support this amendment.

The ACTING PRESIDENT pro tempore. The Senator from North Dakota.

Mr. DORGAN. Mr. President, the Bond-Mikulski amendment described by the Senator from Missouri makes a great deal of sense to me. It seems to me that keeping our promise to our veterans is also a part of national security and national defense. We have a very serious problem in the VA health care system. It is going to grow worse, not better, and we need to add these resources.

As we know, the number of people who have been wounded in Iraq and are going to come back home and justifiably lay claim to the health care they were promised in our VA system, we must provide the funding for that.

I think all of us in this Chamber have had the experience of visiting with veterans with respect to their experience in the VA health care system. They will tell us of seeing the posters of Uncle Sam pointing at them saying, Uncle Sam wants you, and on the bottom of the poster it said, free health care for life.

Many of our veterans have experienced something substantially less

than that when they come home from having served our country, and that is why I think it is very important for us to provide the funding that is needed in the VA health care system.

I recall one day being at a town meeting and a man named Thor came up to me. He had served in the Air Corps in the Second World War, had fought for this country, had done all that his country had asked of him, many years ago. Now he was without much income, in his late seventies, and he was having all kinds of health problems, some of it related to his service in the Second World War. He was not able to get the help he needed.

The day he came to the meeting I held, he told me he was having trouble with his teeth and could not eat. He had false teeth. His teeth did not fit. They were cutting his mouth and he could not get new teeth from the VA system. At age 75 or 80 years of age, having served in the Second World War, done for this country what this country asked him to do, now living in very low-income circumstances, he should not have to beg VA to get new teeth. That ought not be the way it happens.

I happened to get him new teeth because I had a friend who was a dentist. He talked to some people who run a laboratory and he was able to get a new set of teeth. But we ought to take care of these needs more systematically. We ought to fund the VA health care system to provide for the needs of these veterans. It is a promise we have made and, in my judgment, a promise we ought to keep. So I am pleased to add my name as a cosponsor to the Bond-Mikulski amendment.

AMENDMENT NO. 1826

Mr. DORGAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The pending amendment is laid aside.

The clerk will report.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN], for himself, Mr. DURBIN and Ms. LANDRIEU, proposes an amendment numbered 1826.

Mr. DORGAN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To require that Iraqi oil revenues be used to pay for reconstruction in Iraq)

Beginning on page 25, strike line 5, and all that follows through page 28, line 15, and insert the following:

FINANCING OF RECONSTRUCTION

The President shall direct the head of the Coalition Provisional Authority in Iraq, in coordination with the Governing Council of Iraq or a successor governing authority in Iraq, to establish an Iraq Reconstruction Finance Authority. The purpose of the Authority shall be to obtain financing for the reconstruction of the infrastructure in Iraq by collateralizing the revenue from future sales of oil extracted in Iraq. The Authority shall obtain financing for the reconstruction of the infrastructure in Iraq through—

(1)(A) issuing securities or other financial instruments; or

(B) obtaining loans on the open market from private banks or international financial institutions; and

(2) to the maximum extent possible, securitizing or collateralizing such securities, instruments, or loans with the revenue from the future sales of oil extracted in Iraq.

Mr. DORGAN. I offer this amendment on behalf of myself and Senators DURBIN and LANDRIEU. This amendment is identical to that which I offered in the Appropriations Committee, and which lost on a 15-to-14 vote. It is the identical language. So my colleagues on the Appropriations Committee, at least, will be acquainted with the provisions and the specific language of this amendment.

My colleague spoke earlier today about the goals we share for Iraq—our country's objectives in the Middle East and around the world. We all want the Iraqi people to have a better country and to be able to control their own destiny. We all want to foster a democracy in Iraq, in which the Iraqi people are free to make their own decisions, could build a model economy with a market system that works, one that provides an expansion of economic opportunity and jobs for the Iraqi people—all of us would aspire to have that happen.

Some of my colleagues, however, have said this can only happen if you inevitably link the two pieces of the appropriations request sent to us by the President, the $87 billion which includes the amount of money for the defense needs, which is some $66 billion, and the $20-plus billion for the reconstruction of Iraq. They say it must remain a single piece of legislation, inextricably linked, that cannot in any way be taken apart because one part makes the other work.

I suppose it is like a loose thread on a cheap suit. You pull the thread and the arm falls off, so you can't take any part of this and adjust it or change it. That is what we are told.

I believe there are pieces of this legislation that can be changed, and I think changed for the better, in ways that will still accomplish the goals the President and we have for the country of Iraq, but that will also help the American taxpayer.

At the outset, let me say that I believe that the portion of the request relating to our military is important and is urgent, and this Congress will enact it very quickly. I don't think America sends its sons and daughters to war and then decides it will not fund that which is necessary for them to carry out their mission. That would be unforgivable. We have a responsibility to do that, and we will do that.

The second portion of this request, dealing with the reconstruction of Iraq, is a different story. I think there are a couple of aspects to remember about that.

First, the infrastructure of the country of Iraq was deliberately not targeted by the American military attack. The attack, which was called Shock and Awe, which most of us saw on television, did not target electric generation facilities, the electric grid, roads, bridges, dams. It deliberately did not target those. As a result of that, we do not have a country in which their infrastructure has been devastated by carpet bombing of the type that happened in some places during World War II.

Second, many of the reconstruction items in the 20-plus billion request by the administration are not urgent. I will describe that in some detail.

Third, the cost of the reconstruction effort need not, and ought not, to be borne by the American taxpayer. If the United States was the only possible source of funding for reconstruction, that would be one thing. But that is not the case. The fact is that Iraq has a wealth of oil reserves, and Iraq can easily use those resources to finance its own reconstruction. My amendment would help construct a mechanism for the Iraqis to do exactly that.

My amendment simply proposes that there be established an Iraq Reconstruction Finance Authority, in Iraq, by the Governing Council of Iraq, working with the Coalition Provisional Authority. The Governing Council of Iraq is made up of Iraqis. They would create an Iraq Reconstruction Finance Authority. That authority would securitize or sell securities against the value of future oil that will be pumped in Iraq. Iraq has the second largest reserves of oil in the world and has substantial capability to pump a dramatic amount of oil in order to raise ample funds to reconstruct Iraq.

Simply, my amendment says let Iraqi oil pay for the reconstruction of Iraq, not the U.S. taxpayer. And let Iraqis use that Iraqi oil revenue to reconstruct Iraq. This has nothing to do with the United States grabbing part of the resources that belong to the people of Iraq. On the contrary, my amendment says that the Iraqi people, through the Governing Council of Iraq, should use Iraqi oil revenue to reconstruct the country of Iraq. It is very simple. It is not hard to understand.

Some believe that if we followed this approach, we would be accused of grabbing Iraqi oil. They will say: You attacked Iraq because you wanted their oil.

That can't be the case because there is nothing here that would put American hands on Iraqi oil. It would be Iraqis in the country of Iraq using Iraqi oil to reconstruct Iraq. It simply relieves the burden of $21 billion from the shoulders of the American taxpayers, which is what is proposed by the administration for the reconstruction of Iraq. It says instead of having the U.S. taxpayers borrow the money, or the Federal Government borrow the money or pay taxes to reconstruct Iraq, Iraqis can use their oil resources to do that.

Ambassador Bremer said that by July of next year, Iraq will be pumping 3 million barrels of oil per day. That is $160 billion of net export value of oil for the country of Iraq in 10 years. They can easily sell securities against that future production of oil and use that to reconstruct Iraq.

As I indicated, this is the second largest oil reserve in the world. This is not a small resource. This is liquid gold under the sands of Iraq. When they pump it and sell it to a world that needs oil, they will have $16 billion a year. And Iraq could obtain immediate funding for reconstruction by selling securities, or obtaining loans, backed by that future revenue stream.

The concept of securitizing these oil reserves has been endorsed by a number of sources and experts. The endorsement comes from a number of corners of thought. The President and Chairman of the Export-Import Bank, Philip Merrill, has said he supports that concept of using Iraqi oil for reconstruction. In fact, the Export-Import Bank used a similar approach for Russian oil and gas after the fall of the Soviet Union, which was credited with helping to stabilize the industry's finances and restoring Russia's infrastructure in the early 1990s.

Mr. Merrill, the head of the Export-Import Bank says: What we want to do is securitize this flow of oil.

Now, when Ambassador Bremer appeared before the Appropriation Committee, he said that this approach wouldn't work. Ambassador Bremer said you can't have Iraq securitize its oil, or use future sales of oil to reconstruct Iraq, because Iraq owes a lot of money. It has foreign debt. Ambassador Bremer said the foreign debt was owed to Russia, France, and Germany.

After that hearing, I did a little research. It turns out that the largest foreign debt owed by Saddam's regime was not to Russia, France, and Germany.

The largest foreign debt of the Saddam regime was owed to the Saudis, and the Kuwaitis, and the other Gulf Countries. The two largest single creditors, by far, are Saudi Arabia and Kuwait. Saddam's regime also owed some money to Russia, Japan, France, and Germany, that is true, but the largest foreign debt was owed to the Saudis and the Kuwaitis.

I just don't understand the Ambassador's contention that Iraqi oil must be sold right away in order to pay off the Saudis and the Kuwaitis. First of all, Saddam Hussein and his henchmen owed this money. Saddam Hussein ran the country of Iraq, and he engaged in strategies and policies that resulted in these debts. Ambassador Bremer suggested that some successor government in Iraq will inherit the debt. My question is, Why? Why not say to the Saudis and the Kuwaitis: You are owed a lot of money by Saddam Hussein and his henchmen. Find them, and collect it from them.

The Iraqi people ought not have to bear the burden of Saddam Hussein's debt. It doesn't make any sense to me. This man is gone. His government no longer exists. And Iraq is sitting on top of an enormous oil resource.

But we are told now that the American taxpayer should pay to reconstruct Iraq, because Iraqi oil revenues need to be immediately turned over to the Saudis and the Kuwaitis to settle Saddam's debts.

I am sorry. It doesn't add up to me. It doesn't work for me. I don't understand the perversity of a strategy that says the American taxpayer shall bear the burden so that Iraq's assets can be free to pay the Saudis and the Kuwaitis past foreign debt.

Does this make sense to anybody? If you answer, yes, we think this makes sense, the American taxpayers will pay the bill, and Iraqi oil will pay the Saudis, then I am sorry, you need to go back and do some remedial training someplace. You are not thinking straight.

Now, there are those who argue that the current Iraqi Governing Council is not a duly elected government, and has no standing to do anything with Iraq's oil.

But on Friday, Ambassador Bremer said the following:

> The Iraqis are perfectly ready now to accept a lot of responsibility, and they are doing that. There are Iraqi ministers running all 25 ministries. . . . They are making policy in every ministry. They are responsible for the budgets of their ministry. They've got to spend the money. They can move the money around within their budget. They have great latitude. And they are now operating ministries.

The Governing Council of Iraq is made up of Iraqis. They are running Iraq's Oil Ministry, among others. It seems to me that they have the capability to securitize future Iraq oil revenues and pay this reconstruction cost.

Is the Governing Council of Iraq somehow less legitimate than Saddam Hussein's government? To anyone who argues that the Governing Council of Iraq cannot enter into debt on behalf of Iraq, I ask this: Do you think that Saddam's regime was a duly elected government?

In 1995, Saddam ran for President of Iraq unopposed, and he won 99.96 percent of the vote. That's right. Less than four one-hundredths of one percent of the voters voted against Saddam.

In August of 2000, Saddam Hussein ran again for President. He ran unopposed. This time, the official reelection count was better. With 100-percent voter turnout, he received 100 percent of the vote. That was the official result announced by the Iraqi government.

In that election, there were no polling booths. Voters were required to hold their ballot over their heads as the approached the ballot box, so that everybody could see how they voted. When they voted, they had to parade past 28 portraits of Saddam Hussein, and they had to hold these ballots over their heads so they could demonstrate how they voted.

Was that a duly constituted government? I don't think so. The Iraq Governing Council is much more legitimate than the Saddam regime, in my estimation. Why would anyone argue with that? Who wants to come to the Senate floor and say that the debts incurred by Saddam's regime are legitimate, but securities that would be issued by the current Governing Council would not be legitimate?

I ask that again because I think it is important.

Why would anyone argue that the massive debts run up by Saddam Hussein's government are legitimate and payable, but securities issued by the current government of Iraq's Governing Council against future oil revenues with which they could reconstruct Iraq would somehow not be legitimate? It doesn't make any sense.

Until a few months ago, the Administration was telling everyone that Iraq's oil would allow the Iraqis to pay for their own reconstruction.

Let me show what Mr. Ari Fleischer at the White House said about this. He was the President's spokesperson. He said in February of this year:

> And Iraq, unlike Afghanistan, is a rather wealthy country. Iraq has tremendous resources that belong to the Iraqi people. And so there are a variety of means that Iraq has to be able to shoulder much of the burden of their own reconstruction.

He is, of course, talking about Iraqi oil, the second largest oil reserve in the world.

Shortly after that time, Mr. Wolfowitz, the Deputy Secretary of Defense, said:

> . . . the oil revenues of that country could bring in between $50 and $100 billion over the course of the next two or three. . . . We're dealing with a country that can really finance its own reconstruction, and relatively soon.

That is the administration speaking. They say Iraq can finance its own reconstruction, and relatively soon, because it has massive oil resources.

Defense Secretary Donald Rumsfeld, in March of this year, said:

> I don't believe that the United States has the responsibility for reconstruction, in a sense. . . . And the funds can come from those various sources I mentioned: frozen assets, oil revenues and a variety of other things.

That is the Secretary of Defense saying the American taxpayer is not going to have to pay for the reconstruction of Iraq.

Vice President CHENEY, on national television in March of this year, said:

> In Iraq we have a nation that's got the second largest oil reserves in the world, second only to Saudi Arabia. It will generate billions of dollars a year in cashflow in the relatively near future, and that flow of resource obviously belongs to the Iraqi people and needs to be put to use by the Iraqi people. And that will be one of our major objectives.

This administration has said time and time and time again that the reconstruction of Iraq will be done with Iraqi oil.

Let me describe a ''Nightline'' program with Ted Koppel and Mr. Natsios, head of USAID, the lead reconstruction agency in our country.

Mr. Koppel: I understand that more money is expected to be spent on this than was spent on the entire Marshall plan for the rebuilding of Europe after World War II.

Mr. Natsios: No. This doesn't even compare. The Marshall plan was $97 billion. This is $1.7 billion.

Mr. Koppel: I mean, you talk about 1.7. You are not suggesting the rebuilding of Iraq is going to be done for $1.7 billion?

Mr. Natsios: Well, in terms of the American taxpayers' contribution, I do. This is for the U.S. The rest of the rebuilding of Iraq will be done by other countries that have already made pledges: Britain, Germany, Norway, Canada and Iraqi oil revenues. They are going to get $20 billion in revenues but the American part of this will be $1.7 billion.

Again, this is the lead person on the reconstruction of Iraq speaking last March.

Mr. Koppel: I understand. But as far as reconstruction goes, the American taxpayer will not be hit for more than $1.7 billion no matter how long the process takes?

Mr. Natsios: That is our plan, and that is our intention.

Over and over and over again, Mr. Natsios said exactly the same thing.

It is strange that not many months later all of those folks—Secretary Rumsfeld, Vice President CHENEY, Deputy Secretary Wolfowitz, Mr. Natsios—all said the same thing. And now there is this eerie silence from those folks who told the American taxpayer, you won't have to pay for this, Iraqi oil will pay for it.

Now they send up a $21 billion request to say to the American taxpayer, you will pay for this. And, by the way, you can't change any element of this, because this all fits together like a puzzle; take out one piece and you destroy the puzzle.

Now, in Ambassador Bremer's request, part of the nearly $21 billion involves items that are clearly not related to any damage caused by our military action:

$1 billion to rehabilitate power distribution networks that were in a highly deteriorated condition before the war.

This has nothing to do with the war. It is just 20 years of devastation by Saddam Hussein's government.

$50 million to rectify the actions of the former regime and reconnect the Euphrates River to 30 villages and 100 farms.

That is an irrigation water project and has nothing to do with the war.

There is $50 million to restore a marsh and rectify some of the environmental tragedies ''of the past 25 years''; $50 million for water projects in Basra, a ''long neglected city''; $125 million to restore railroad tracks that suffered from ''severe neglect over time.''

There are a whole series of things like that, that on their face are not a result of the war and in many cases not particularly urgent. Here is a pretty symbolic item: $1.6 million requested to build museums and memorials. I have never heard of an urgent request for a museum. I have heard of important requests for museums, but I have never heard of a request for a museum that is urgent or an emergency. I am wondering if there is anyone in our country who thinks that the building of a new museum in Iraq is an emergency.

Many have mentioned, and I did in the Appropriations Committee, some of the expenditures: For a 4-week business course for executives, $10,000 per student. That 1-month catchup course in business is double the monthly cost of going to Harvard Business School.

There is $55 million for computer training, $330 a month for half-day courses; $1,500 per student for a 6-month second language English course; $9 million to study ZIP Codes for the postal service in Iraq; $100 million for 2,000 garbage trucks; $4 million to start telephone area codes.

The fact is, many of these items are not an emergency and not urgent. And the American taxpayer should not have to pay for any of this, because Iraq has the resources to pay for its own reconstruction. Yet we have this piece of legislation that we are told is not separable, it comes as one piece; pull a string on the cheap sweater and the arm comes out; take one piece out and it destroys the rest. That is nonsense.

When you look at the $66 million requested by the Pentagon to support our troops, no question: We need to do that, and we need to do that now. But when you look at the $21 billion with respect to reconstruction, in my judgment, that can be done by having Iraqis securitize Iraqi oil, and using that financing for the reconstruction of their own country.

I said when I started, everyone has the same ultimate objective. I want not just Iraqi people, I want people around this world, to have opportunity and hope, to live free, to live in circumstances where they have an economy in their country that expands and produces jobs and opportunity.

There is a hopelessness and helplessness in many parts of the world. One-half of the population of the world lives on less than $2 a day. One-half have never made a telephone call; 150 million have no access to potable water that is healthy and is of good quality; 150 million kids are not in school. This is a big, challenging world.

We are focused now on the country of Iraq. I want things to go well in Iraq. I want our soldiers to be safe. I want them to be able to come home as soon as possible. I want the Iraqi people to come through this experience believing their country has turned a corner and they can live in freedom and have some hope and have the opportunity to make a good future for themselves.

But as we do all of that, we have some responsibilities at home. We need to be able to deal with those. We are lucky to be Americans, lucky to be alive now and to live in what I think is the greatest country in the world, but we have a lot of challenges. We have huge homeland security issues right here at home.

The plain fact is, we have had major studies done, most notably the Hart-Rudman study by two of our former colleagues for the Council of Foreign Relations. That study says we are dangerously unprepared. In fact, that is the title of the study. We have a lot of things to do at home to make sure we are prepared to protect our country against another attack by terrorists. We can't just write a blank check for Iraq's reconstruction, and say spend whatever you need, let's spend $9 million for new ZIP Codes and buy pickup trucks and build prison beds at $50,000 a bed in Iraq. We have urgent needs here, in this country, and we do not have infinite resources.

With respect to the country of Iraq, our country ought to be supportive. We ought to be helpful. We ought to aspire to have the same kind of future for the folks in Iraq that we want for ourselves; that is, a future of hope. But that does not mean the American taxpayer ought to bear the burden of solving problems created by Saddam Hussein when he borrowed money from Saudi Arabia, Kuwait, Russia, France, Germany, and others. It does not mean we ought to bear that burden. Those debts ought to be forgiven or restructured. Iraqis ought to be able to use their oil resource to pay for the reconstruction of Iraq right now. Very simple.

Sometimes we get so rigid in this political process, we do not hear each other; we talk past each other. The discussion about this in the committee came down to this: the President says it has to be this way now, and therefore it must be this way and we cannot consider another way. I offered two amendments in the Appropriations Committee. The first amendment, identical to the one I am offering today on the Senate floor, was that there should be created an Iraq Reconstruction Finance Authority. They should borrow money against future Iraq oil and reconstruct Iraq. It is the burden of Iraqi oil, not the burden of the American taxpayer, to reconstruct Iraq.

That amendment lost by a vote of 15 to 14, though at least one of my colleagues on the other side of the aisle expressed support for the concept, and said he might consider this approach on the Senate floor.

So I offered a second amendment in the Appropriations Committee, which said that instead of providing a 20 billion-plus dollar grant, we should extend Iraq a loan. That is not something I prefer, because I think Iraqis can finance their reconstruction by securitizing their oil. But it is a better approach than just extending a grant.

I lost that second amendment as well, by a vote of 15 to 14. I understand that a number of my colleagues on both sides of the aisle are interested in this concept.

So we will have these debates in the Senate. I expect that we will vote on

the amendment I offered today, once we return. My hope is we can find a bipartisan way to agree on something that shows common sense.

Most of us know little about Iraq. But Iraq is not a desperately impoverished country. Iraq sits on top of the largest reserves imaginable. The oil reserves exist under that sand. There is only one country that has larger reserves. That is Saudi Arabia. Iraq has great capability to invest in itself and build and grow and provide opportunity for the Iraqi people.

Even as we aspire to have that happen, we had better look inward a bit in this country and ask ourselves where we are headed. We are facing record Federal budget deficits. This year, we also had the largest trade deficit in the history of this country, by far.

The combined budget and trade deficit is very close to $900 billion. Yet people walk around here as if it is ''Hear no evil, see no evil, speak no evil.'' It is as if none of this exists.

All of this money we are talking about today, $87 billion—all of it is borrowed against our children's futures. Why?

The President wants to have it all: We need tax cuts. We need increased military spending. We need increased homeland security spending, and, at the same time, $87 billion now for Iraq, on top of the $79 billion earlier this year.

Someone, someday, in some way, pays the cost of that. That cost comes with a lower standard of living in this country if we do not get our fundamentals in order. You just cannot keep doing this.

Mathematics is taught the same way from Maine to California. There is only one way to add and subtract.

What we require, I think, is a bit of backbone from Republicans and Democrats, this President and the Congress, to stand up and take a look at what we are facing, our budget deficits, our trade deficits, our long-term future economic health, and decide we have to put things back on track. That is important for this country.

Yes, I care about Iraq, as do my colleagues. Yes, we should be concerned about the reconstruction of Iraq. But that is a burden that Iraqis can bear, by using their vast oil resources. It is not a burden that ought to be borne by the American taxpayer.

The Senate will not be in session next week. But I will seek to have a vote on this amendment when we return.

I thank my colleagues. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Mr. President, I ask unanimous consent to speak as in morning business for up to 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. I thank the Presiding Officer.

CALL FOR APPOINTMENT OF SPECIAL COUNSEL

Mr. President, I take the floor again today, as I said I would do every day, until this matter is resolved, until the individual or individuals who leaked the name of a CIA undercover agent to the press are identified and prosecuted to the full extent of the law.

So I take the floor again today to again recap what has gone on, and also to ask the President to become more fully engaged in finding out who did this.

As I said earlier this week on the floor, President Bush can resolve this matter, literally in an hour, by calling his senior staff members in the Oval Office and asking them one by one if they were involved. It would be very simple. Call them in and ask them: Were you involved in this, yes or no?

Bear in mind, the Washington Post story on Sunday—this is when it all came out in the open—reported a senior administration official revealed two other ''senior White House officials'' had leaked the undercover CIA agent's identity to six reporters before the so-called Novak column ran in July. So again, a whistleblower in the White House revealed—and this is according to the Washington Post—a senior administration official. In the Post on September 28, last Sunday, they quoted the senior official who said:

> Clearly, it was meant purely and simply for revenge, the senior official said of the alleged leak.

It was purely and simply for revenge against Mr. Wilson, obviously. So we know now a whistleblower in the White House, a senior administration official—we don't know who—revealed two other senior White House officials had leaked the undercover CIA agent's identity to six reporters prior to the Novak column running in July 14. Someone was pretty busy in the White House calling six reporters. And the senior administration official said it was ''purely and simply for revenge.''

Why doesn't Mr. Bush simply call them into the Oval Office and ask them one by one: Were you involved in these leaks? We know at least three of these senior administration officials know the full story. We know now at least three senior administration officials know the full story. The odds are many more know the story as well, that there was some talk around the White House back in July about doing this. I find it hard to believe some low-ranking individual called six reporters without having this cleared at the highest echelons in the Bush administration. Obviously, we know there are three. There may be more.

Mr. Bush could resolve this matter literally by lunchtime if he were to call the senior officials in the Oval Office, lay down the law, and get some answers.

I was driving in to work this morning and I heard on the radio that the President is flying to Wisconsin this morning for yet another fundraiser. People have their priorities, I guess. I think our priority should be getting to the bottom of this as soon as possible and finding out who made these leaks, not flying off for yet another fundraiser in Wisconsin.

Again, instead of a serious, straightforward approach, the President now is trying to make light of the matter. He was joking and laughing about it yesterday with some foreign journalists.

I refer to a story that appeared in the Washington Post this morning, Friday, October 3. Headline: ''Justice to Begin Leak Interviews Within Days.'' I will have more to say about that. I will quote directly from the article in the paper this morning:

> As pressure built on his aides,

—regarding finding who leaked this information—

> Bush joked about the matter. During a roundtable discussion with reporters for African news organizations, he was asked about three reporters in Kenya who were detained this week in what some journalists saw as an effort to intimidate them into revealing sources. The detention drew a condemnation from the International Federation of Journalists which complained that the government has been harassing and brutalizing journalists.
>
> ''I'm against leaks,'' Bush said, to laughter. ''I would suggest all governments get to the bottom of every leak of classified information.'' Turning to the reporter who asked the question, Martin Mbugua of the Daily Nation, Kenya's largest daily newspaper, Bush said ''By the way, if you know anything, Martin, would you please bring it forward and help solve the problem.''

I guess I find this remarkable, a matter as serious as this, disclosing the identity of an undercover agent in the midst of our war on terrorism, where we have to rely upon good intelligence, we have to rely upon the security of these individuals, and to let them know that at no time, now or in the future, will they be outed, which could do serious harm not only to them but to their sources and to others. Rather than approaching this in that serious manner, the President is joking about the matter as if this is ha-ha, some kind of a lighthearted little diversion from his fundraising activities.

I will say this: This is not a laughing matter. The President may take it lightly, but I don't believe our intelligence agencies, nor do I believe those of us here in the Congress will take it lightly either. And neither do the American people take it lightly.

This is a deadly serious matter of national security. The President of the United States should make it his personal business to resolve it as soon as possible. In fact, I would suggest the President should publicly commend the individual who told the Washington Post last Sunday about the leak, promise to protect that whistleblower's job, give that person a certificate of merit

for being truthful and honest and helping to expose those who may have leaked this information, rather than joking about it with foreign journalists and asking them if they know anything about it, would they please help him out.

I understand from today's news reports that the Justice Department has set a deadline for White House documents related to the matter. That is great. But I still don't understand why it has taken at least 2 months for them to request this information since exposing the identity of an undercover CIA agent is a violation of Federal law punishable with up to 10 years in prison. Also I believe it goes further than just releasing classified information.

This is an issue, as I said, about compromising the safety of our undercover agents and the investigative efforts to prevent future threats to the United States. Again, let me just go back to this timeline.

On July 6, former Ambassador Joseph Wilson's op ed appears in the New York Times, questioning President Bush's assertion that Iraq had sought uranium from Niger.

On July 14, Robert Novak publishes a column saying ''senior administration officials'' have identified Wilson's wife as ''an agency operative of weapons of mass destruction.''

On July 24, Senator SCHUMER calls on the FBI director to open a criminal investigation based on that call.

In late July, the FBI notified Senator SCHUMER they sent an ''inquiry'' to the CIA.

Then it appears that nothing happens for 2 months.

On September 23, the Attorney General says he and CIA Director Tenet sent a memo to the FBI requesting an investigation.

So in July the FBI says they sent an inquiry to the CIA. In September the Attorney General says they sent a memo to the FBI requesting an investigation. On September 26, the Department of Justice officially launches its investigation.

But interestingly, it took 4 days after that official launch for the Justice Department to call White House Counsel Gonzales and notify him of the official investigation and to tell them to preserve documents, phone logs, et cetera.

Today, October 3, according to the newspaper, we understand the Attorney General wants to quickly move the investigation along. Again, I don't understand why it took President Bush and Attorney General Ashcroft so long to get moving on this investigation, when they appeared to move so quickly in wanting to question our congressional Intelligence Committees last year for allegedly leaking ''classified information.'' In fact, the FBI was coming down, as Senator DURBIN said on the floor, asking them to take lie detector tests. But now we don't seem to be moving very rapidly in trying to get to the bottom of this real—not alleged, but real—leak of classified information.

I have other concerns as well, and that has to do with the clear conflict of interest Mr. Ashcroft has with this administration.

I refer to this chart. There was a story in the newspaper about the close connections Mr. Ashcroft has had with senior White House officials. This chart kinds of shows it. We have Attorney General Ashcroft, then Mr. Karl Rove, senior assistant to the President, who was a paid consultant for Ashcroft for Governor in 1984. Mr. Rove was a paid consultant for Ashcroft for Governor in 1988. Mr. Rove was a paid consultant for Ashcroft for the Senate in 1994. Today, he is political director and senior advisor to President Bush.

Then there is Jack Oliver. He was campaign manager for Mr. Ashcroft in 1994. Mr. Oliver was deputy chief of staff in Senator Ashcroft's office in the Senate. Mr. Oliver now is a deputy finance chair for the Bush-Cheney reelection team for 2004. Now we understand that, with these connections, these people so high up in the administration, such as the Attorney General—President Bush is his boss. The Attorney General says he can do the investigation. Give me a break. That is why we need a special counsel. That is why the American people see this as an inherent conflict of interest, with all of these people so closely tied together. That is why we need an appointed special counsel.

Some argue this is purely politics, that we are blowing this incident out of proportion. Well, what makes this so serious is this administration released its classified information for revenge to punish those who told the truth at the risk of national security and the safety of others.

I have been hearing all of these spins coming out of the White House about Mr. Wilson and politics, and so I was looking at this and I wanted to get to the bottom of it. I looked at this and I saw the spin coming out of the White House and the Republican Party. Here is Mr. Gillespie, RNC chair:

> The fact is that Ambassador Wilson is not only a, you know—a former foreign service officer, former ambassador, he is himself a partisan Democrat who is a contributor and supporter of Senator Kerry's Presidential campaign.

That is Ed Gillespie, RNC chair, on September 30.

Then, here is the former RNC communication director, Cliff May. He said:

> Wilson is no disinterested career diplomat—he's a pro-Saudi, leftist partisan with an ax to grind. And too many in the media are helping him and allies grind it.

What are the facts. The fact is we found out Mr. Wilson has given money to the Presidential campaign of Senator JOHN KERRY. But he also contributed money to George Bush during the 2000 election. GOP Representative Ed Royce, a Republican from California, received $1,000 from Wilson between 2000 and 2001. I don't know Mr. Wilson; I never met him in my life, but it looks as though he is one of those independents who gives to both sides depending on who he thinks is best qualified. The fact is former President Bush—the first President Bush—praised Wilson for his courageous leadership when he was Ambassador in Baghdad in 1990. He praised him for his courageous leadership, saying:

> What you are doing day in and day out under the most trying conditions is truly inspiring. Keep fighting the good fight. You and your stalwart colleagues are always in our thoughts and prayers.

Yet spokesmen for the Republican Party want to make Mr. Wilson some leftist partisan with an ax to grind. No, don't get to the bottom of it, you see. Don't find out who leaked it. Attack Mr. Wilson's character. Have we seen this before? We sure have.

So, again, this is no laughing matter. Quite frankly, I just don't understand the President joking lightheartedly about this, but he did. The President needs to take it seriously. The American people take it seriously; we take it seriously. He can take care of it very quickly, as I said, by calling in those senior advisors and asking them, one by one, if they have knowledge of this. Mr. Ashcroft can hardly investigate his own boss, with all of the connections he has. He can hardly be asked to investigate.

That is why under ''recusals'' in the Department of Justice Resource Manual it says:

> If a conflict of interest exists because a United States Attorney has a personal interest in the outcome of the matter or because he/she has or had a professional relationship with parties or counsel. . . . Where there is the appearance of a conflict of interest, the United States Attorney should consider a recusal.

I can think of no better example of an appearance of a conflict of interest, nor where the U.S. Attorney has had a professional relationship with parties or counsel. They should recuse themselves. That is what the Attorney General should do, and he should appoint a special counsel to proceed further to investigate this matter to find out who leaked it.

I will close with this. As I said yesterday, it is not just the person or two persons who leaked this to six reporters; how did these individuals get that classified information? Who gave that to them? Did it come from the NSC? Is that now politicized? Did it come from the CIA? Did someone in the White House request this kind of classified information in order to put it out?

That is why I said yesterday, and I repeat again today, there is a cancer growing on this administration, and the best way to get rid of a cancer is to excise it. The best way to excise it is for the President himself to get involved, for the Attorney General to recuse himself, appoint a special counsel, and let's get to the bottom of this, not in a matter of weeks or months but in the next few days.

Nothing less will suffice for those brave men and women working all over the globe to get the intelligence and the information we need to fight global terrorism and to reassure them that this will never happen again.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. I thank the Chair. Mr. President, I ask unanimous consent that I be allowed to continue as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT REQUEST—S. 1618

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 282, S. 1618, a 6-month extension of the FAA authorization; that the bill be read a third time, passed, and the motion to reconsider be laid upon the table, without intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. SESSIONS. Mr. President, at the request of other Senators, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. LAUTENBERG. Mr. President, I reclaim the floor. I am disappointed that my Republican colleagues objected to this request because the future of our aviation system is an extremely important matter.

On Tuesday just past, the authorization for the Federal Aviation Administration expired under its previous authorization, called Air-21, and we are struggling to get something done that can pass both Houses and serve the public, as they should be, in aviation.

My UC request was to pass a 6-month extension of all aviation programs so we can continue this critical airport improvement program without any interruption.

The continuing resolution that the majority brought to the floor last week intentionally omitted funding for certain important airport construction programs under the Airport Improvement Program. It is $3.4 billion for fiscal year 2004. The fiscal year is now 3 days old.

I think it is irresponsible to allow this critical funding to lapse in the current economy. Job loss is at an all-time high, and the preliminary U.S. Census Bureau data shows that transportation construction is down 8.7 percent from this time last year. Withholding any part of the $3.4 billion in construction projects makes this problem even worse.

Why did we need to consider a continuing resolution for aviation programs at all? The Senate passed a bill reauthorizing FAA programs on June 12 of this year. The House passed it before then. But we cannot get a bill passed because since that time, Republican leaders, at the behest of the President, have decided to wage an ideological battle over privatizing our air traffic control system rather than doing what the public wants and needs.

I suggest the White House leave its ideological debates at the Heritage Foundation. Let us pass an FAA bill. The public wants safe skies—and I agree with them—not cutbacks in safety, not cutbacks in security.

The biggest problem the White House created in the FAA conference report is overprivatizing our air traffic control system. Despite clear language prohibiting this in both the House and Senate versions of the bill, conference leaders ignored the clear mandates and bowed to the will of the ideologues in the White House.

In all of my years of serving in this Chamber, I have never seen such disregard by conference leaders of a clear safety mandate by colleagues in both Chambers. A bipartisan majority in the Senate voted 56 to 41 for an amendment that I offered to prevent privatization of our air traffic control system. We voted to heed the lessons gleaned from the attacks of September 11, the lessons of our Space Shuttle Program, the Shuttle *Columbia* disaster, and the experiences of our foreign counterparts to avoid making the same mistakes that will end up costing our society more.

September 11, 2001, was a most tragic day, perhaps the most tragic in our history, when America's invincibility was pierced. Almost 3,000 people were killed. In my State of New Jersey, nearly 700 people lost their lives in the terrorist attacks.

As my colleagues know, Transportation Secretary Mineta ordered all aircraft in U.S. airspace grounded that day. It was a massive undertaking in just a few hours. Some 5,000 planes were guided to safe harbor, and our air traffic control system managed that unprecedented effort flawlessly.

I show on this chart what happened on September 11, 2001. At 8:30 in the morning, the skies looked like this to those who were watching the scopes in the towers in the FAA: All of these little green stars, symbols, depict an airplane. The sky was filled. If we look at the northeast corner of our country, including New York and New Jersey, we almost cannot see the black portion of the map because the traffic was so heavy at 8:30 in the morning on that fateful day.

At 9:45, after the attack had begun, we start to see a lessening. There is much more of the map visible.

At 10:45, an hour later, look what happened: Those thousands of airplanes with passengers in every one of them, almost 5,000 airplanes in the sky at that time, and the FAA had to jump in and the controllers had to exercise their best judgment because they had to direct these airplanes to a safe landing place regardless of what their original destination was. We see a totally different picture. There are very few spots where we see airplanes in the sky.

The terrorists crippled our aviation system, and it was the FAA, our heroes, who managed this terrible task that day because they knew what their responsibilities were and they jumped to it. We didn't know whether there were going to be other planes brought down that morning, but the FAA did its job. The Secretary ordered the planes out of the sky, and people were able to touch down in almost every case safely. The cases that did not were those that were suicidally brought down by maniacs.

On September 11, those who operated our Federal air traffic system demonstrated great heroism and dedication. Air traffic controllers across the Nation performed heroically as they guided the thousands of aircraft out of the sky. Technicians who certify and maintain the high-tech equipment kept it operating reliably throughout the crisis, and flight service station controllers talked directly to the pilots to let them know what was happening and to tell them the best places they could look to for a quick, safe landing.

In my home State, from the tower at Newark International Airport, the air traffic controllers could see the World Trade Center burning in front of their eyes. As they worked to return Americans to the ground safely, they knew that people were dying in front of them.

In the aftermath of these tragic events, the American people demanded private baggage screeners becoming Federal employees. But it seems backward to me that the administration, who quickly got on the problem with the baggage handlers because the private side was not handling it well, put them into Government hands—I believe 28,000 was the total number—and they still want to contract out the air traffic control system to the lowest bidder. It is one thing to assure ourselves that the baggage that goes aboard these airplanes is free of explosives and damaging material, I agree with that, but it is worse to ignore the fact that airplanes full of people, perhaps my grandchildren, my children, other people's children and their families, are in those airplanes. Do we not want the best that we can get in safety and protection for our people? I think so.

The risks of privatizing highly technical and complex operations speak for themselves. On February 1 of this year, our country suffered another tragedy. The Space Shuttle *Columbia* tragically exploded over the skies of Texas, and we lost some of the most courageous Americans on that day. Immediately after that accident, it was our air traffic control system that worked flawlessly to guide aircraft around the falling debris.

Following this disaster, the *Columbia* Accident Investigation Board, led by ADM Harold Gehman, published its findings. The board found that cross-cutting and a drive for ever-greater efficiency at NASA—a pioneer in Government privatization—had eroded NASA's ability to assure mission safety.

Now, if safety lapses can lead to the *Columbia* Shuttle accident and the failure to guarantee the safe return of our brave astronauts from mission STS–107, just how much are we willing to gamble on the safety of the 2 million Americans who travel in our skies every day?

The lessons of privatization are hard learned and should not be ignored. Other countries have tried this already and they have paid the price. Australia, Canada, and Great Britain all have privatized systems that did not live up to the promised benefits of privatization. Just to clear the air, privatization means that these tasks will be handed over to companies whose mission it is to make a profit and who will try to do the job at the cheapest prices.

A member of Parliament of the British House of Commons named Gwyneth Dunwoody said this:

The privatization of the United Kingdom's air traffic control system was a grave mistake, and one that the United States can still avoid making. British air traffic controllers are among the best in the world, and they fought tooth and nail to keep ATC in the public sector.

The public sector means in government.

They insisted that the sale of the national air traffic services would lead to a collapse in morale, the unwise introduction of inadequate and unreliable equipment, and an increasing danger of catastrophic accidents. The Government did not listen and went ahead. They were wrong and the air traffic controllers were right.

Costs have gone up and safety has gone down since Great Britain adopted privatization. Near misses have increased by 50 percent and delays have increased by 20 percent. Do we want to risk near misses in the skies over America? Do we want to take a chance because we can buy security on the cheap? I do not think so, and I am going to do whatever I can to prevent that from happening.

The British Government has already had to bail out the privatized air traffic control company twice. When is this administration going to take off the ideological blinders from its eyes and learn the lessons taught to our British friends?

President Bush himself should be quite familiar with the importance of our air traffic control workforce. Last month, on September 10, the day before the second-year anniversary of the most tragic attack on our soil, the President traveled to a fundraiser in Florida. As Air Force One, the President's airplane, approached for a landing, air traffic controllers noticed an unidentified car on the runway that Air Force One was attempting to land on. Disaster was avoided because of the quick reaction of those air traffic controllers in Jacksonville.

Despite these lessons, the administration has pushed hard to privatize through the contract tower program which has been beneficial to many small airports across the country. Most of these 200 or so small airports would not otherwise have an air traffic control tower.

There are many more. Some 4,000 small airports exist that could use this program, but the administration wants to use the program to privatize some of the busiest airports in the country. Examples of some of the busiest airport towers: They want to privatize the eighth busiest airport in the country, Van Nuys, CA, almost a half a million flight operations in 2002; the 18th most busy, the Denver Centennial Airport in Colorado, over 400,000 flight operations in 2002. In fact, those two airports are busier than Washington Dulles, which was 23rd with 392,000 flight operations in the year 2002. We look at Arizona, the 24th busiest airport, Phoenix/Deer Valley Municipal Airport, 390,000 flight operations in 2002. The list goes on. We are looking at the 50 busiest airports in the country.

Some may notice that two airports were dropped out of the list, both in the State of Alaska. Now, why is Alaska exempted? The chairman of the Transportation Committee in the House of Representatives is Congressman YOUNG. He is chairman of the committee because he has seniority. Well, he made sure that the two Alaskan airports that were listed for privatization were taken off the list. They are smart in Alaska. They know they have to fight to protect themselves. They are a long distance from the mainland, but they are smart enough to exempt themselves from this dangerous privatization scheme.

I do not believe the safety of every other airport in our national aviation system is any less important than the safety at Alaska's airports.

The White House interfered in our process and altered language in the FAA conference bill so they would be explicitly allowed to privatize some of the busiest air traffic control towers in the world. It is for this reason that I and many of my colleagues are not going to agree. We are not going to accept any FAA reauthorization conference report without language prohibiting privatization of our air traffic control system. I am going to fight until the will of the Senate is heeded. Others have pledged to do the same thing.

I want to make clear to my colleagues that we passed legislation to prevent privatization of the air traffic control system. It was bipartisan. There were 11 Republicans and the remainder Democrats who passed that bill.

The system is made up of many important parts, including the air traffic controllers themselves, those who run the towers, the technicians who have the responsibility to certify that the equipment is working, and the flight service station controllers who communicate directly with the pilots as they make their way to their destination.

As FAA conference leaders did not abide by the will of both the Senate and the House to prohibit privatizing our air traffic control systems, my colleague, Senator ROCKEFELLER, the ranking member of the Commerce Committee's Subcommittee on Aviation, and I, introduced S. 1618. It is the Temporary Federal Aviation Administration Reauthorization Act of 2003. This legislation extends funding for reauthorization for all aviation programs, including the AIP program, for 6 months, and it also addresses the immediate safety and security needs while FAA conference leaders work with us to go back and fix the problems they created for themselves in the FAA conference report.

But, unfortunately, my unanimous consent request to pass this extension was objected to by the majority. In the meantime, our Government operates under a continuing resolution that means we couldn't get our work done in time, that as fiscal year 2003 ended we were not prepared, though we knew a year in advance that the new fiscal year was going to start with October 1, 2003. I find it outrageous that the Republican leadership in Congress would effectively punish our economy with further job losses in order to afford the opportunity to the White House to wage their ideological battles.

I am appalled they would intentionally zero out the Airport Improvement Program, again, the program that keeps updating our airports across the country. It is over $3 billion. I am appalled they would intentionally zero that out, zero out the opportunity to put Federal funds in there for airport construction programs, to muscle their plan through the Congress. It is not going to happen.

Our economy cannot stand to lose any more jobs, and using a continuing resolution to cancel a program which will provide $3.4 billion in AIP funding is just irresponsible.

I hope when we get this bill up my colleagues will work with us so we can do the right thing.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

MORNING BUSINESS

Mr. SESSIONS. I ask unanimous consent that there now be a period of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

IRAQ

Mr. SESSIONS. Mr. President, I want to share a few thoughts. I will probably talk about it next week on the supplemental for our activities in Iraq.

I congratulate and will be forthright in my support for the military men and women who are serving so extraordinarily well and Ambassador Bremer for his leadership in an effort to create a new government in Iraq where the

people can live and progress and have the benefits of progress that have been denied them for so long.

I am exceedingly pleased with what they are doing. They are operating at risk, particularly in certain areas of Iraq—at less risk in other areas. Progress continues to be made throughout the country. I am proud of that.

I was a Federal prosecutor and attorney general of Alabama. I served in law enforcement for over 15 years. I went to Iraq in August and asked specifically to visit the Iraqi police training center, which I was allowed to do. From the beginning of this effort, it was clear to me that the key to a prosperous and healthy and stable and peaceful Iraq is the bringing on of a capable police force.

It is not as easy as you would think. The Iraqi police were functionaries under Saddam Hussein. He had a tough secret police that did the heavy, vicious work, and he had other police who were poorly trained, and many of them not functioning at the level at which we would expect police in the United States to function. So it is not an easy thing.

Originally the plan was to bring on a smaller police force. I urged them to go to a larger police force, and they certainly are doing that. We now have 35,000 police up and operating in Iraq. These are Iraqis. The goal is going to be to double, or more, that number.

We also have plans to bring on an Iraqi Army, which is exactly the right thing. Our numbers were smaller but now we are looking to have a 40,000-person army. We could go more. I would have thought at first glance that we would have a larger army. But the truth is, Iraq is not subject and not expecting and we should not worry too much about an invasion of Iraq. What we have in Iraq is a suppression of pure and simple crime—criminals, thugs, gang members, and that sort of thing. We have the remnants of a Baathist regime that is attempting to sabotage a new and free government in the hopes they can at some point in the future recapture control of Iraq. Then we have Islamic extremists, not out of the heart of Islam but this extremist element that is slipping into the country and participating. So this is quite a different thing than what normally an army would confront.

These comments are relevant because a large part of the supplemental that the President has asked for has been for the training of police and security forces. The administration, Ambassador Bremer also plans to bring on a substantial number of security forces. Those would protect sites such as the oil companies or the electricity or the water companies that may be subject to sabotage and may require a different kind of training; maybe less training.

I point out these officers are being paid less than $100 per month. And I suppose for the most part they pay their own food, rent, and that kind of thing. But in salary alone, we could hire 20 Iraqi police officers for the cost of one American soldier there on salary, not counting the support group that has to keep that soldier there, not counting the food they have or the retirement benefits or any of those things. So we can probably do 30 or 40, maybe 50 Iraqi soldiers for the cost of 1 American soldier. The price, as I understand the salaries for the soldiers and police, are not a lot different, and run, generally, under $100 a month. This is the right way to go.

I had the opportunity when I visited in Iraq in August to go to the base, the operating base of a military police unit from my home State of Alabama. They were first rate. Over half of them were police officers in the State, patrolling State Troopers and sheriff's deputies and others. They have real-world experience. They told me they were patrolling with Iraqi police officers on a daily basis. They go to the Iraqi police station, they buddy up, and go out and patrol in that fashion. That is precisely what we need to see more of.

There are a lot of reasons for that. Our soldiers, the mere presence of them, sends a clear message that we will not allow any organized group to assume control or domination over any area of Iraq.

Really, they are not good police officers because they can't speak the language.

They may be some of the best police officers in Alabama or anyplace in the country, and they may have been trained going through the FBI Academy. But if you can't speak the language, you really can't be as effective as you would like to be. What they are effective at is encouraging and strengthening the local Iraqi police officers. They are good at training them, showing them how to keep records and how to maintain intelligence. They can provide integrity, courage, and a sense of consciousness that we are going to be with those Iraqi police officers who stand for a new Iraq, who put on that uniform, and who go out on patrols in neighborhoods where people know them and their families. If they will show that courage and step out there and do the job, they can be successful and create a country that would be quite different than they have had before. I know that can happen. I am really convinced that can happen.

I am pleased that this supplemental has a good deal of money for that. Some Members complain, well, we don't mind helping our American soldiers over there, but we don't want to spend our money on infrastructure or police training.

By the way, the infrastructure money includes training for police and soldiers and for deployment of police and soldiers. I think that is wrong. What we know is this: We know we are spending almost $4 billion a month to sustain our military forces there at some risk. There is no doubt about it. We have lost 90 soldiers since May 1. I suppose it has been 120 days since that time. It is very disturbing.

I went by Walter Reed the weekend before last. I talked to soldiers who lost limbs, who had been injured and are rehabilitating. Their spirit was terrific. But it does not cause you to lose appreciation. It causes you to increase appreciation for them. I know the Senator from Texas has lost soldiers from Texas. We have lost 10 soldiers from my home State of Alabama since this war began. I have had the burden of calling families to express my personal sympathy and the sympathy on behalf of our country for their service.

What do we do here? People say let us support our troops. Let us make sure they have the money, but we want to attack this extra money. It is $60 billion of this $87 billion for soldiers and maintaining our military presence. It is $20 billion for reconstruction, which includes bringing on a military and a police force.

I am going to tell you frankly what my view is. I believe we need to help this country create a new country, one that provides opportunities for all Iraqis to succeed.

Dr. Chalabi was the president last month of the council. They rotate. He was here this past week. I note that some have criticized Dr. Chalabi here and there. But he has been very effective as a leader over there, it appears to me. He is outspoken and brilliant. He went to the Massachusetts Institute of Technology. He majored in mathematics. He went to the University of Chicago and got his Ph.D. in mathematics. He was dean of the American University School in Beirut, Lebanon. He spent 4 years living with the Kurds in northern Iraq as he helped to participate in the effort to overthrow the evil regime of Saddam Hussein. He was sharing his vision of how they have already passed laws to allow economic progress to occur. They have already passed rules that would break down the racial traditions. He said they had a law. Saddam Hussein went back to determine racial ancestries to the fifth generation and completely wiped them out. People are going to be given a chance no matter what background or religion or ethnic group they are from to progress. It is exciting to hear people who have been there talk about it. The key to it is going to be the police.

One Senator said, well, they are not very good. Senator KENNEDY said they are not effective. I asked our MPs in August about Baghdad. Baghdad is a tough area. Some of the areas are very peaceful, and things going along much better than some of the areas in Baghdad. There are tough areas. They said: We like these police officers. They are working with us. We patrol with them on a daily basis. One young soldier told me, with no brass around: We bonded with them.

That is an important concept.

At Walter Reed the week before last, one of the soldiers who was injured was an MP. He is a good-looking young

man. I asked him some questions. I asked him about local police, did he work with them. Yes.

I asked: How good were they? What he said to me really kind of shocked me.

He said: That is exactly what President Bush asked me when he came by here.

The President was at Walter Reed and visited with him and asked him that question. How are the local police doing? He said: Yes, they are not ready to take over the country right now. But he said they are good. There are some good ones. He talked about when they went on patrol. One of the Iraqi policeman was at the rear of the patrol. They took fire. He returned fire in an effective and courageous way. He was impressed with him. He said that he showed discipline and courage under stress. He was impressed.

I also had the opportunity to meet the chief of police in Baghdad. He is a very impressive man; a two-star general under Saddam Hussein who made negative comments about Saddam Hussein which resulted in him being put in jail for 2 years.

When asked by Secretary Wolfowitz at one point why he spoke out against Saddam Hussein, he said he really didn't speak out. He was talking to his closest friend, questioning him, and it leaked back to Saddam Hussein and he goes to jail. That is the kind of life under which they lived. This man is courageous. Some say the police don't have gumption. But he goes out personally on raids. They are doing raids every night seizing weapons and arresting dangerous individuals.

Two weeks before I got there, leading a raid late one night, the chief of police—you will not see that much in America cities—was out on a raid and was shot in the leg and wounded. He came back to work sooner than he was supposed to according to the doctors because he wanted to be there. He wanted to show his commitment and wanted to get the work done for Iraq.

Subsequent to my return, there was a bomb attempt to kill him.

There is a tough, dangerous group out there. How do you get them? We are not going to get them with rolling tanks down the street. We are not going to get them with armored vehicles on the streets with Americans who really become targets. We are going to get them by utilizing intelligence from individuals. We are going to utilize individual police officers who are Iraqi citizens, who believe in a new Iraq, who are willing to step up and be counted, and who can change that country forever.

It is an exciting thing out there. I particularly wanted to share my thoughts today.

I do not agree with the comments of the distinguished Senator from Massachusetts who suggested that the police in Iraq are not effective and can't do the job. No, we shouldn't walk away from that. We shouldn't leave them out there exposed. If we stay to back them up, we will be able to draw down our soldiers. And the sooner we can draw down our soldiers, the better we are going to be. That local police force can be the key to stabilizing the country so that a new government can be formed—a free, independent constitutional government that provides legal protection for all.

I think we can be successful. We have made a commitment as a country. We voted in this body 77 to 12 to undertake this activity. We were told that all kinds of bad things would happen. Some have happened. We lost some soldiers. But we lost fewer than most people were predicting. We didn't have the house-to-house fighting in Baghdad. We didn't have the thousands of casualties that many predicted. We didn't have a humanitarian disaster. We did not have a lot of things that were predicted. But the looting that took place exceeded anything I imagined. We found out the infrastructure in Iraq was far more damaged, having had far less updating and improvement in 20 or 30 years of his warring than most people imagined. It will take more money than we thought.

So we get electricity turned on in that country and have it reliable for the first time ever, we get the water on, a healthy water system, a police force, and a continuing strengthening of that government.

We will have a new government and we will have been successful in eliminating a major threat to this world and eliminating one of the most despicable evil leaders this world has seen. I will put him in the top 10 at any time. Any person who sees the graves of people killed by him knows that is true. You see the pleasure the people have of seeing him gone. It is overwhelming. A European poll not too long ago said 87 percent of the Iraqi people did not want the United States to leave right now.

We will be able to help them do something special, create a better life for that area of the world, and in the long run that will be a magnificent advantage to us. We do not want to take over their oil or their land or dictate religious faith. We simply want them to progress, to be successful, to create a good government so their people will be able to live in peace and harmony. That is our goal. It is a great goal and worthy of the United States.

This supplemental is critical. I am a frugal Member of this body. I am proud of the Watchdog of the Treasury Awards I get. I watch closely how we spend money. But right now, let's do the right thing. Step up the effort to create a stable Iraq, step up the timetable of bringing our troops home, and help step up the time the people of Iraq can have a decent government.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SUNUNU). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO JOSHUA ALEXANDER BOYCOTT

Ms. MURKOWSKI. Mr. President, I stand before you today to speak of a young man who has touched many of the lives here in the Senate Chamber. It is with great sadness that I rise today to talk about a young man from Alaska. Alaska and the country lost this young man last week.

On Friday, just 1 week ago, one of my former Senate pages, Joshua Alexander Boycott, was killed in a car accident in his hometown of Fairbanks. It was one of those mornings. He was driving his younger brother to school. In Fairbanks at this time of year, winter is starting to happen. It was the first snowfall, with slippery, icy roads. Apparently Josh lost control of the vehicle and was killed.

Josh was one of those young Americans, those young Alaskans whom we look at and we can identify instantly as a young man going places. I look at the beautiful faces of the young pages who serve in this Chamber. I look at each one of them and I see the potential and the greatness in each and every one of these beautiful young men and women. Josh had that.

Josh came to the Senate during the 2002 fall semester. He was one of those who so thoroughly enjoyed what he did in the Senate as a page. For those who are not familiar with the routines and rituals of the pages on the Senate floor, it may seem that oftentimes what pages do is a bit mundane—filling glasses of water, standing guard at the door during the votes, getting lecterns for Senators so they may speak, running errands all over. It is not exactly intellectually challenging, high-powered stuff. But Josh enjoyed every bit of it. He would stand there and open the door with a big smile and a ''Good morning.'' It was not just to me, his Senator from Alaska, it was to every Senator who came through. He was so thoroughly enjoying being part of the process. He was well liked by the other pages with whom he worked. He did exceptionally well in the page school.

Again, the pages certainly know the routine they have to deal with on a daily basis: Very early morning hours, attending page school, full, long days, attending to their duties here in the Senate Chamber. And then in the evening, it is not as though you have the night off and can go do what you want; it is time to study and do all that is required of you. It is an extremely rigorous schedule, but there were no complaints from Josh. He was thriving on it because he was doing exactly what he wanted to do.

The last time I saw Josh was in late July. He was one of two Alaskans selected to attend the American Legion

Boys Nation, a conference at Marymount University just outside of Washington, DC. After the conference ended, he came up to my office to say hi to everybody because he made great friends here. I was fortunate enough to be having a party for my summer interns at my home that night. We were having a barbecue at the house, so I invited Josh over to join us. He fell right in with this group of new Alaskans he hadn't met, but by the end of the evening it was obvious everybody enjoyed him as much as I had. It was a wonderful conversation. We were talking about what it is he wanted to do when he grew up, where he wanted to go next. He actually had aspirations of attending my alma mater in Washington, DC, which is Georgetown. Josh was in the process of applying to the university.

What he really wanted to do was return to Washington, DC, to continue his passion for politics. He had seen so much, he had observed so much, and was so stimulated by what he saw around him that he wanted to come back and make a difference. I have no doubt that were he able to, he would have done just that.

In addition to being a great young man everybody liked, he was a great student. He was at the top of his class, ranking 15 out of 262 seniors. He scored over 1500—actually, 1510—out of a possible 1600 on his SAT exam. He was an incredible singer. I had the privilege of being serenaded, if you will, by his singing choral group in Fairbanks. I looked over and said, wait a minute, don't I know that boy from somewhere? It was during the summer months. He left DC as a page and he was then back in Fairbanks. I looked over and I thought, wait a minute, that is Josh. What is he doing singing like a bird. It was beautiful, just gorgeous.

Josh was a dynamic young man, a gifted young man who had a future that I think we can look to and say he was making a difference. It is a tragedy Josh's life was cut short. He was truly an extraordinary young man who brought so much joy and so much pleasure to everybody who was around him. I personally feel blessed to have known him, to have been able to share some of his short time with him. I ask that we remember his friends, and particularly his family, who are grieving for this loss at this particular time.

But as we reflect on the life and contributions of a young man such as Josh Boycott, I suggest all those who are able to serve us here as pages in the Senate look at this as a gift, an opportunity to be in a place of service, to be in a place where you can learn, and you can give back so much at a later point in your life.

So, again, I am blessed to have known Josh. I know many in this Chamber feel the same way. I mentioned yesterday in the cloakroom that I was going to be speaking about Josh, and everyone in the cloakroom remembered him. He has been gone from the Senate Chamber now for over 6 months. All the Senate pages look alike—in terms of their dress, that is—yet Josh had distinguished himself.

So it is with great love and respect that we pay tribute to this fine young man and to his family during this time of mourning.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRESCRIPTION DRUG BENEFIT

Mr. FRIST. Mr. President, health care affects each of us in very personal ways. As a physician, but also being majority leader, people will come to me and ask: What are you doing about this particular health care issue? It might be a senior who asks: Why don't I have access to prescription drugs as I did when I was 60 years of age and employed by a company, and all of a sudden it disappears when I go into Medicare?

That is the type of question to which this body has responded and, indeed, we have passed a prescription drug benefit appropriately coupled with health care—Medicare specific—modernization, in the sense that it brings the Medicare Program up to today's standards, the type of health care to which other people have access.

We are addressing in the conference between the House and the Senate this Medicare prescription drug package. We had two meetings today with the various conferees, in a bipartisan way—the House and Senate together working through the details of marrying the House and the Senate bill. I am absolutely confident that under the leadership of Chairman Bill Thomas in the House and Vice Chairman Chuck Grassley in the Senate that this conference will deliver a bill in October that will accomplish that goal of health care security and access to prescription drugs for all seniors.

People also ask me: What about those people who do not have access to health insurance, those people who are not in Medicare at all? Medicare is our program for seniors and individuals with disabilities. What about those who are not in Medicaid, which is our unique Federal-State partnership through which health care is delivered for the underserved and the impoverished or poor of the Nation? What if one is not in an employer-sponsored plan as I mentioned?

Most people who are not in Medicare and Medicaid, the overwhelming majority get their health care through employer-sponsored plans. What if somebody is not in one of those plans today? What if one is not in the SCHIP program, the program that originated in our Congress that reaches out to children predominantly run by States, or if one is not in a Government program or not in the private program and thus uninsured? What are you doing, Senator FRIST, and what will you do?

This week, the Census Bureau confirmed what many of us felt and feared, and that is that the number of people without health insurance increased last year to over 43 million. That is about one out of every seven Americans under the age of 65. That represents a 5.7 percent increase over 2001. So the uninsured number is increasing, and there are a lot of reasons why. We have talked in our various conferences and committees and debated why that number is increasing. One can parse the statistics and numbers and say that is how many do not have insurance over a period of time, and 6 months later many of them will have insurance.

Putting all that aside, I argue that the uninsured are among the greatest health care challenge we have in the United States of America today. Thus, I believe we have a real obligation not to say we have so much else going on that we cannot address that but that we do have really a moral obligation to address this issue of the uninsured and to do it in a systematic way.

As I mentioned before, very much of our focus has been on Medicare today. I will mention shortly some of what we have been doing with regard to the uninsured, but there is still a lot we need to be doing. If we step back and look at our economy, although the economy itself is improving—and maybe not as quickly as a lot of us would like, but the economy is getting better each day—in spite of that, the budget pressures at the State level and the job losses from last year combined in a very complex way to increase the number of uninsured to 43 million people. To me, this is one of the most daunting health challenges—I would say it is even beyond health policy challenges—that we have affecting our Nation.

I say that in part because of personal experience. I have had the opportunity to treat Medicare and Medicaid patients and the uninsured through the transplant program in which I had the opportunity to participate in Nashville. Both in the acute care and in the chronic care, it is obvious that if one has no health insurance, no help with being able to access health care with a lowered financial burden, one's quality of health care suffers. It is not as good as the health care of people who have some type of insurance, private sector or public insurance.

The uninsured are four times less likely to receive dental care and necessary medical care. They are five times less likely to obtain prescription drugs. They are four times more likely—and this really makes sense—to access the emergency room for routine care rather than the more efficient, and arguably more effective, channels

of being able to see a physician or go to a doctor's office.

The lack of affordable health care is also one of the key factors that affects what we call health care disparities among the underserved or minorities themselves; that is, where a person of one race has different health care outcomes than those of another race or one socioeconomic level versus another socioeconomic level. It does not explain it all, but it is clearly one of those variables we can affect, and we have to do it in a coordinated way because our health care system in America, which is the best in the world, no question about it, overall health care in the United States is of higher quality than anywhere in the world.

If we do look at the numbers that were released this week, they were a year old, and since they were compiled—because they are historical data, being a year old—the economy has improved over that year, and indeed almost all economists expect that, depending on how one looks at the statistics, we will have annualized growth of nearly 4 percent in the coming months. It may go higher than that and come back down a little bit, but we will have good, significant growth in the coming months.

Indeed, the Associated Press this week reported:

> America's consumers, flush with tax cuts that left them with extra cash in their wallets, ratcheted up their spending by a strong .8 percent in August, helping to power an economic resurgence.

So I think we are seeing improvements in our economy. That is only just beginning to be reflected in jobs. We did have encouraging news earlier this morning from the Labor Department that U.S. companies show a net increase of 57,000 jobs. That is good news for the economy, but also that is good news overall for health insurance or medical insurance. Why? Because most Americans in this country get their health care through their employer, through jobs. Thus, as we grow the economy and add jobs to the economy, we do have an expansion in medical coverage.

While the recovery takes hold, it is clear that we have an obligation to respond with policies and that as we look at the future agenda in health care, we need to focus on the uninsured.

Some of what we are doing now in this body, in response to what we recognize is a major problem and one that is growing, are the following: Last month, the Senate passed the Labor, Health, and Human Services appropriations bill. In that bill, we had $1.6 billion for community health centers. We met the President's request for an additional $122 million in funding over last year, which was an increase over last year. This response by this body enables us to move toward the President's goal of enabling community health centers to serve an additional 6 million patients by the year 2006.

We all have community health centers in our States, districts, and regions, and we know the vital role they play in reaching out to the underserved or those without health insurance today.

I say we all know, and I say that in part because I have been so involved in health care issues, being a physician, but I think we need to shine a light on them. They serve a tremendous need and respond in an innovative, flexible way that is locally driven, which is something that cannot be praised enough.

Second, as I said, many people get their insurance through Federal programs or joint Federal-State programs. There is a program called SCHIP. Basically when you hear SCHIP, think health care for children. In July, the Senate fulfilled the President's request to extend the availability of $2.7 billion in Federal SCHIP funds that either expired at the end of 2002 or will expire in the current fiscal year. These funds will be available to allow States to continue the program without which, if we had not acted, as many as a million children would have lost health coverage. That has now become law.

In addition, in terms of looking at what we are doing, focusing on this whole issue of the uninsured, if you look to the jobs and growth package, the 2003 jobs and growth package that we passed—people always talk about the tax cuts, tax relief which is so instrumental in pulling us out of this recession and stimulating our economy, but in there as well was $20 billion in fiscal relief that goes directly to the States, and about $10 billion of that was specifically targeted at enabling the States to maintain gains they had made in health care for the poor through their Medicaid Programs through a tool or through the technique of the enhanced Medicaid Federal match rate. That is the technical way of saying the Federal Government, in an enhanced way, helps the States with funds that go directly to the State.

I mentioned those two or three examples because it is important for our colleagues and others on the other side of the Capitol, in the other body, and really our constituents, to understand that we in the Senate are addressing the issues of the uninsured. President Bush has made tax credits, what we call refundable tax credits for low- and middle-income families, a major part of his proposal to address the issues of the uninsured and to expand health coverage. He also has consistently supported medical savings accounts and promoted the expansion of medical savings accounts in other ways that can offer affordable health care options to those who might not have insurance today.

The President and we, or many of us—about half of us; not all of us—in this body continue to fight hard for medical liability reform, medical litigation reform, malpractice reform. The reason for that is not to in any way jeopardize the very good system we have, that if there is harm and injury there is just and fair compensation, but the purpose for that is to get rid of the unnecessary lawsuits, the excessive lawsuits that drive up the costs of health care that ultimately are passed on to patients, driving up the cost of health insurance for everybody. Meaning, if you don't have sufficient resources, you simply give up your health insurance or you can't get it in the first place. Again, it is an important part of the President's initiative, as well as our own initiative on this floor. For my colleagues, I will say we will keep coming back to address this whole issue of medical liability.

The cause of 43 million people who lack insurance today is difficult to characterize, in terms of a generalization. It does take a targeted approach to identify who the 43 million people are and then target specific approaches to them. Therefore, it has to be comprehensive but it is also very complex by its very nature.

I think the tone of a lot of the debate today on the uninsured has been polarizing. Because of that polarizing framework, a lot of people have been hesitant to put it out front and to put an agenda out front. I wish to share with my colleagues my commitment to work to find workable solutions to a problem that is increasing, a problem that directly affects the health care of 43 million but indirectly affects the health care, really, of us all.

In that regard, I have asked Senator JUDD GREGG, our colleague from New Hampshire, to lead a Senate Republican task force on uninsured and access to affordable health care coverage. I have asked Senator GREGG and his task force to propose a series of recommendations to address the uninsured issue so we can both debate, discuss, and through committees but also on the floor attack this problem head on.

The task force will be looking at all options, including new ideas. I look at it as a place that ideas can be brought, that we can debate and discuss, and hopefully we will look at many of the ideas that have been proposed in the past but also reach out and obtain new ideas, creative ideas, ideas we may not yet have thought about or that we haven't addressed in the past.

I do intend to take these recommendations and use them as a basis in establishing a legislative agenda so we can on this floor systematically address the issue of the uninsured.

In closing, I appreciate Senator GREGG's willingness to take on this task. I look forward to working with him and his task force in addressing this pressing issue. I am confident that out of this task force we will get new ideas, innovative thinking, dynamic ideas that will allow us to deliver real solutions to the American people who do not have health insurance today.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Before he leaves the floor, I say to the distinguished majority leader how much I have enjoyed working with him over the years on this issue of health care. As he knows, Senator HATCH and I have worked for many months on a bipartisan proposal that we would like to be part of the discussion he is going to launch. I have come to the conclusion that, as pressing as the financial issues are with respect to health care, the social and ethical issues are going to be even more important as we face this demographic tsunami of millions of baby boomers who are retiring in 2010 and 2011. So I am grateful the majority leader continues his interest in health care.

I continue to have a bipartisan interest in working with the majority leader, who has spent so much time on those issues over the years. I know I speak for Senator HATCH in this regard as well.

We have to break the gridlock on this issue. Literally for 60 years, if you look at the parallel between what Harry Truman tried in the 81st Congress in 1945 and what was tried in 1993 and up to this day, we see, unless we find a way to take a fresh approach, as the distinguished majority leader said today, we are not going to break this gridlock.

So I welcome your statement today. I am anxious to work with you and the chairman of the committee, Senator GREGG, to pursue these proposals.

Mr. FRIST. Mr. President, just briefly responding through the Chair, I very much appreciate those comments because, just as we have done with Medicare, it is going to take strong bipartisan support to get good, effective legislation through.

Second, the point about why now versus 10 years ago, 20 years ago, or 30 years ago—I agree wholeheartedly. We have this huge demographic shift that didn't occur 10 years ago or 20 years ago or 30 years ago or 40 years ago, that we are realizing right now. It gives us a perfect reason for all of us to come together to address these problems—the uninsured is a major one for both of us—in a way that may be unprecedented, at least in the last 10, 20, or 30 years.

I very much appreciate those comments and look forward to working with my colleague.

IRAQI GASOLINE PRICES

Mr. WYDEN. Mr. President, I come to the floor this afternoon because I am troubled by what appears to be a request by the Bush administration in the Iraq supplemental that would have our citizens use their hard-earned tax dollars to subsidize the cost of gasoline in Iraq so Iraqi citizens would only have to pay 10 cents a gallon.

The questions I am going to raise this afternoon with respect to this proposal can all be found essentially on page 29 of the report with respect to the request for the supplemental funds for rehabilitation and reconstruction of Iraq.

For those who are following this discussion, this is under the question of the purchase of oil products at page 29 of the request for the supplemental.

I want to begin asking some questions about the fairness of this Bush proposal and about how this subsidy program that is in this report would work if it was actually to be funded by the Senate.

Today I also intend to send a letter to the President trying to get answers to some of these questions. But I would tell the Senate that here is what we know at present.

The Bush administration has included in its Iraq supplemental funding request an estimated cost of $900 million to cover the difference between ''Iraqi demand and refinery production to establish and maintain a 30-day reserve in all major petroleum products to ensure no interruption in basic services due to terrorist activity.''

The administration's funding request specifies:

> $600 million will be needed in the first quarter of 2004 to compensate for the large difference between demand and production and to build this 30-day reserve.

The first question is, How much is going to be spent on creating this reserve, and how much is going to be spent on purchasing gasoline for Iraqis? Using demand data from the Energy Information Agency's latest report on Iraq and current market conditions, it is estimated the establishment of a 30-day fuel product reserve would cost approximately $200 million. If that amount is correct, that would mean roughly $400 million would be spent to purchase gasoline and other petroleum products for Iraqis in the first 90 days of next year. Iraq is importing about 750,000 gallons of gasoline a day, according to recent statements by senior oil ministry officials.

Based on those statements, Iraq would need about 67.5 million gallons during the first quarter of 2004. If that estimate is correct, U.S. taxpayers would be paying almost $6 per gallon for the gasoline that is provided to Iraqis by the United States in the first quarter of 2004.

The question I ask today and in the days ahead will be: Why does it cost $6 per gallon to provide gasoline to Iraqis when the cost in neighboring countries such as Saudi Arabia and Kuwait is less than $1 per gallon and below the $2 per gallon cost almost everywhere in our country?

According to an article in the Houston Chronicle on September 28, the United States has already spent hundreds of millions of dollars to provide gasoline to Iraq under the contract previously issued with Halliburton. My question here would be: What is the cost of gasoline that has been sent to Iraq by the United States? What was the wholesale price involved here that Halliburton paid for the gas sent to Iraq at taxpayer expense?

Of course, I think our citizens would want to know what profit was made on these deliveries.

The Houston Chronicle also reported that in Iraq the low-octane government-subsidized gasoline sells for less than a dime a gallon.

I ask unanimous consent that the article from the Houston Chronicle entitled ''U.S. Taxpayer Footing Bill for Cheap Iraqi Gasoline'' be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Houston Chronicle; Sept. 28, 2003]

U.S. TAXPAYERS FOOTING BILL FOR CHEAP IRAQI GASOLINE

By Michael Hedges

BAGHDAD, Iraq.—Mahmoud Ali, a gap-toothed 15-year-old, worked steadily under a penetrating sun at his rather monotonous job outside the large Mansur filling station here.

Taking turns with his two uncles, Ali waited in line in the family's 1982 Chevrolet to get a tank of cheap gasoline, which the locals call benzene, at the station subsidized by the Iraqi Oil Ministry.

After filling up the faded white Chevy, the men pulled the vehicle to a curb. There, they siphoned the fuel into 20-liter plastic jugs to sell at triple the posted price to other drivers too frustrated to wait in the lengthy lines.

Then, one of the men drove the Chevy back to the line to sweat it out until another full tank of fuel could be secured.

Selling fuel at three time its state-set price about 100 yards from a line of 14 working pumps would be a hard dollar to earn in another economy.

But it works here in Iraq, because the low-octane, government-subsidized fuel sells for less than a dime a gallon. Even working-class Iraqis earning a few dollars a day are willing to pay outrageous mark-ups to avoid the line.

''Benzene is cheaper than water here,'' local journalist Qais Al-Bashir said Friday.

What it is costing American taxpayers is another story.

Since the fall of Saddam Hussein's regime last April, Iraq's resuscitated oil industry has been unable to produce enough gasoline, cooking oil and other petroleum products to meet the country's needs.

So far, U.S. taxpayers have spent some $562 million under the Halliburton contract to bring in gasoline and other fuels and make needed repairs to Iraq's gas distribution network, according to the Army Corps of Engineers. In fact, that effort has accounted for nearly half the $1.22 billion worth of work that Halliburton has performed in Iraq since the war.

''The benzene we sell here comes from Turkey, Kuwait and Saudi Arabia,'' said Majed Mohammed, 44, who manages the Mansur station for the Iraqi Oil Ministry.

''Before the war,'' he said, '' it was 100 percent from Iraq. But now we have problems with sabotage of the pipelines. The refineries are working at far less than capacity.''

Mohammed, who has worked for the Oil Ministry for 21 years, said artificially low fuel prices are nothing new to his country.

''The cost is subsidized by the ministry,'' he said. ''It was like that before the war when Saddam was here, and it is the same now. We are obliged to do it because of the needs of the people. If we didn't, there would be major problems and even more anger at the Americans.''

Iraq is importing about 750,000 gallons of gasoline a day, according to recent statements by senior Oil Ministry officials. Expectations by the Bush administration that

oil could fund the massive rebuilding of the country—or at least the needs of its people in the immediate future—have not been met.

Iraq's oil output is less than half the prewar level of 2.3 million barrels per day and only about one-third the 3.2 million barrels produced by the nation before the 1991 Persian Gulf War and the subsequent United Nations embargo.

Experts differ on when Iraq's fuel production capacity will reach 1990 levels. The Coalition Provisional Authority, which oversees the U.S.-led occupation, has said that production could reach 3 million barrels per day by later summer of 2004. Private analysts have said it could take at least a couple of years to reach that level.

For the foreseeable future, the occupation authority will have to spend massive amounts to underwrite the fuel used by Iraqis. And conservation seems unlikely in a country where decades of cheap gasoline have created a culture in which driving around in aging, fume-spewing cars is seen as a form of recreation.

''Iraqis always loved to drive, and there are more cars than ever now—cars from Kuwait and Jordan that have come in since the war,'' said Mohammed, the Mansur filling station manager.

Even on Friday, the Muslim holy day, lines formed at the city's fuel stations.

''We used to be open 24 hours a day before the war, so there were no lines,'' Mohammed said. ''Now we have a curfew, and people don't feel safe to wait in line after dark because of the explosions.''

The 10-person staff at the Mansur station provides its own security, and a stack of AK–47s is kept handy in the main office.

Not all the city's fuel stations are owned and operated by the Oil Ministry, though none is a truly private business.

Meqdam Abdullah, 30, runs a station near the Sheraton Ishtar Hotel in central Baghdad that his family leases from the Oil Ministry. In exchange, officials sell fuel to the station at a slightly reduced price. By averaging sales of more than 100,000 liters a day, the station ekes out a small profit, Abdullah said.

But it is a tough business. During the war, the station got caught in a firefight between U.S. soldiers and armed looters, as evidenced by patched bullet holes.

Since the war ended, thieves have struck more than once, taking, among other things, the station's generator that is needed to produce electricity. Abdullah's family had to pay the looters to get the generator back. It was a necessary expense, because officials provide electricity to Baghdad in sequences of three hours on, three hours off.

Like many other Iraqis, Abdullah said the failure of U.S. authorities to provide security is his biggest complaint in the post-Saddam era. The lack of consistent electricity is the second.

He attributed the sporadic power to some inscrutable form of manipulation similar to the times, he said, that Saddam cut off fuel to disfavored minorities.

''America,'' Abdullah said, ''is the world's great superpower, and it can't get the electricity back? I can't believe that.''

The generator briefly failed at the service station on Friday. Ironically, dirty fuel provided by the government because of poor refining was believed to be the cause, Abdullah said.

For a while, the station was quiet. But as the generator sputtered back to life, cars immediately veered into the lanes besides the pumps.

The only types of gasoline transaction not largely controlled by the Oil Ministry here are the bootleg operations like those of Ali and his uncles.

''It is illegal, but no one bothers with them,'' shrugged Mohammed, the Mansur station manager.

On Friday, business was slow as Ali and his uncles offered large plastic jugs of fuel for sale.

''It is always slow like this on Fridays, because it is the holy day,'' Ali said. ''But we'll be back tomorrow. We always do well on Saturdays.''

Mr. WYDEN. Mr. President, my question flowing from what we have learned and the various issues we have been exploring throughout the days since we learned about this is, Were U.S. taxpayer funds spent to keep the cost of gasoline in Iraq at this heavily subsidized low price?

I am of the view that our taxpayers deserve to get answers to these questions. I think we deserve to get them before Congress votes on the Bush administration's funding request.

I can tell my colleagues in the Senate that when I read page 29 of this particular report with respect to oil products purchased, I was very concerned. My citizens and the folks I represent in the Pacific Northwest consistently pay some of the highest gasoline prices in our country. Oregon, Washington, and California have been very hard hit with respect to gas prices. It amounts to a quasi-monopoly in 27 States in our country. We have red lining. We have zone pricing, and a whole host of anticompetitive practices. Now we have outlined on page 29 of this request for supplemental funds what appears to be a request from the administration to have the hard-earned tax dollars of our citizens go to subsidize the cost of gasoline in Iraq so Iraqi citizens will only have to pay 10 cents a gallon. I can tell my colleagues there are people we represent here in the Senate who are not paying that kind of money.

That is why I want to get the details on this proposal. I am amplifying on the questions I am asking today in a letter to the President of the United States. We also come away with a concern that the administration seems to be willing to support creating a reserve in Iraq to protect Iraqi citizens against interruptions in gasoline and diesel fuel supplies when there is no gas and diesel reserve in the United States to protect our citizens in the event of terrorist activity or other disruptions.

This proposal in the report which I have outlined and referred to specifically so that colleagues can see it raises some very troubling questions.

Given what we already know now that the administration has included in its Iraq supplemental funding request an estimated cost of $900 million to cover the difference between Iraqi demand in refinery production to establish and maintain this reserve due to possible terrorist activities, I think it is time for the Senate to take out a sharp pencil and review this proposal very carefully. I think it raises fundamental questions with respect to fairness and with respect to how the hard-earned tax dollars of our citizens are being used at a time when in my State, with the highest unemployment rate in the country, there is a world of hurt.

I urge my colleagues to take a good look at this proposal because I intend to focus more on it when the Senate comes back after having the opportunity to be home and gather with the people we represent.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CHARITABLE CHOICE

Mr. FRIST. Mr. President, in April of this year the Senate passed, with an overwhelming vote of 95 to 5, a bill called the charitable choice bill. It is obviously bipartisan legislation that was shepherded through this body by Senator SANTORUM, and a lot of work, over a long period of time, has been put into the efforts for passage of this legislation.

Two weeks ago, the House of Representatives passed its version, H.R. 7, by a vote—again, it was overwhelming—of 408 to 13.

The regular process of the House and the Senate is that the bill will proceed to a conference on the differences between these two bills. Unfortunately, it is my understanding that we will be unable to reach an agreement today, this afternoon, before adjourning to go on break, to appointment conferees on the part of the Senate.

There is, simply put, an objection on the other side of the aisle, and with so many Members who have left for the day, I will not ask for a formal consent agreement. But clearly, I am disappointed that we were unable to take the next logical regular order step in finishing this bill. I do hope we can clear this agreement with my Democratic colleagues just as soon as we return from this nonlegislative period.

Another disappointment for me, as we prepare to adjourn, has to do with the partial-birth abortion ban bill—disappointment that we are not able to progress with the legislative process until we get back. When we do return, I will seek an agreement for the consideration of the conference report to accompany S. 3, the partial-birth abortion ban bill. In fact, it is S. 3 which shows the priority of this body toward this important legislation.

Yesterday the House of Representatives passed the conference report, and as soon as we get back, we will be scheduling it for consideration. The bill passed the Senate on a bipartisan vote of 64 to 33. With the conference complete and with the House having passed the agreement, it is imperative that the Senate consider this measure

in short order so the President can sign this legislation into law.

As I watched yesterday with the House completing their responsibilities on this legislation, I was hopeful that we could do that, pass it today. Why? Because this is a bill that I believe will save lives. It is a ban on a procedure that offends the sensibilities of almost all Americans, a procedure that the will of this Congress said to ban, and a bill the President will sign. Yet we will not be able to, at this juncture, consider it until we get back.

I know discussions have begun on both sides of the aisle as to how much debate time will be needed. I encourage members to move quickly on what we expect to be the final action—the final action—on this important priority. I will speak directly to the issue as soon as we return, but I wanted to put my colleagues on notice that we will be moving forward and will be scheduling this conference report for Senate action as soon as we possibly can.

KURT DODD

Mr. BYRD. Mr. President, as the ranking member of the Committee on Appropriations, it is my sad duty to inform the Senate family of the passing this morning of Kurt Dodd. Kurt served as the Democratic clerk on the Interior and Related Agencies Subcommittee from 1998 to 2000.

Those of us who knew Kurt, and particularly those of us who were lucky enough to have worked closely with Kurt, will truly miss his gracious manner, his soft-spoken style, and his profound dedication to duty. I have said on many occasions that the individuals who hold staff positions here in the Senate are, in my opinion, some of the smartest, most dedicated individuals in government service. Kurt Dodd stood at the head of that line. No one knew more about his areas of responsibility than Kurt. No one was more responsive to the needs of the Members of our committee than Kurt. And no one was more widely respected for his integrity and honor, than was Kurt.

Mr. President, on behalf of the Committee on Appropriations, and I am sure on behalf of the entire U.S. Senate, I send deepest condolences to Kurt's family.

THE 16TH ANNUAL NANCY HANKS LECTURE ON ARTS AND PUBLIC POLICY

Mr. KENNEDY. Mr. President, each year, a prominent member of the Nation's cultural community is invited to deliver a lecture on the role of the arts in the public policy. These annual lectures are tribute to the memory of Nancy Hanks, who served as chairperson of the National Endowment for the Arts from 1969 to 1977, and who had the wide respect of all of us on both sides of the aisle.

Robert Redford was honored as this year's Nancy Hanks Lecturer, and he delivered an impressive address at the Kennedy Center last month.

His remarks emphasized the fundamental importance of the arts in our public policy, as an essential expression of our freedom and as an indispensable part of our national imagination at its best.

The unfortunate reality today is that when the economy suffers, support for the arts and for arts education is reduced. In communities across the Nation, funding for the arts and for cultural programming are facing serious reductions. Robert Redford's address reminds us of the unacceptable price we pay for neglecting the arts.

Today, Robert Redford is an American cultural icon, and his accomplishments as an actor and director are renowned throughout the world. His advocacy for the arts is less well known, but he deserves great credit for his impressive leadership and dedication in elevating the national debate on this vital issue. Many of us feel it is his finest role of all.

At the beginning of his lecture, speaking of his own early years, he says:

I grew up in a time when democracy was taken for granted since it was drummed into our minds as a fundamental definition of America and why it was great. I was shaped by WWII and a time when we were all united in its purpose—unlike conflicts of today. Because times were tough, and my family resources slim, we didn't have fancy toys or luxuries and had to be creative in inventing worlds of our own. My imagination was my most valuable commodity and thankfully it became a life force for me at a very young age. I saw the world around me not only as it was. I saw the world around me as it could be. Art and the imagination that give it life became my closest companions.

Before anyone was much interested in what I had to say, they were interested in what I created. As a kid, I remember sketching everything in sight. My parents and their friends played cards and I began drawing them as a group, individual faces and the like. Then I moved under the table and began sketching their feet at which point I think everyone started to worry. Even though they thought I was a bit weird, I got attention and encouragement for my ''art'' at a young age.

His lecture will be of interest to all of us in Congress and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REMARKS OF ROBERT REDFORD AT THE AMERICANS FOR THE ARTS' 16TH ANNUAL NANCY HANKS LECTURE ON ARTS AND PUBLIC POLICY

I've been coming to Washington, D.C. for the past 30 years, either filming here, as was the case in All the President's Men, or for lobbying efforts on behalf of issues relating to the environment, energy, human rights and art. In the beginning, it was a heady experience to be in the halls of power surrounded by history and event, feeling what it is like to be an integral part of a democracy—particularly if you were fortunate enough to move someone on an important issue.

In time, you experience changes in political climates, different attitudes and priorities. The strength of the system that controls decisions and compromises became clear over time, and expectations of success had to be tendered with failure relating to these realities. But still, you feel fortunate to have access to the ears that made decisions.

Even though you knew that celebrity was maybe a door opener, it nonetheless cuts both ways in politics. Like the time I was on the Presidential campaign trail and speaking to thousands of kids on a college campus about the importance of their vote and environmental issues. In the roar of their connection with what I was saying, I thought for a moment ''I'm really getting through here!'' Then I walked off stage and immediately a reporter stuck a microphone in my face and said, ''Who do you think is better looking, you or Dan Quayle?

So, just when you might be feeling your oats, reality has a way of sneaking up and putting it all in perspective. But as a citizen and an artist, I try to remember that it is a right and responsibility to be able to partake in the process of democracy I'm here today because of my belief that art is a great translator of that which is both familiar and unfamiliar and that it is through art that we can come to know ourselves and others. To me, the vitality and insight which art brings to civil society is more important now than ever.

I grew up in a time when democracy was taken for granted since it was drummed into our minds as a fundamental definition of America and why it was great. I was shaped by WWII and a time when we were all united in its purpose—unlike conflicts of today. Because times were tough, and my family financial resources slim, we didn't have fancy toys or luxuries and had to be creative in inventing worlds of our own. My imagination was my most valuable commodity and thankfully it became a life force for me at a very young age. I saw the world around me not only as it was. I saw the world around me as it could be. Art and the imagination that gave it life became my closest companions.

Before anyone was much interested in what I had to say, they were interested in what I created. As a kid, I remember sketching everything in sight. My parents and their friends played cards and I began drawing them as a group, individual faces and the like. Then I moved under the table and began sketching their feet at which point I think everyone started to worry. Even though they though I was a bit weird, I got attention and encouragement for my ''art'' at a young age.

While I was a poor student academically, I shined in sports and in art and my third grade teacher was next to recognize that art was a legitimate means of expression for me as I struggled with more traditional approaches.

I remember she had me come to the front of the room and draw a story on this big pad of newsprint on an easel. I think we were studying English and she used it as a basis to make a point. The whole class seemed to get it and all learned a little about sentence structure and storytelling in away that engaged and made sense. I didn't know what ''it'' was that they got, but it sure felt good.

My teacher's encouragement of my artistic tendencies continued, making me realize art was something legitimate to pursue and that it was integral to how I was finding my way in this world and making sense of things. If not for this, I may have taken a path that wasn't as fulfilling and productive. That's the main reason I'm here, to pay tribute to the work that so many of you do every day, to keep art alive in schools and in communities all across the country.

Being in this hall tonight prompted me to remember some of the writings of President

John F. Kennedy. I became reacquainted with a speech he gave in 1963 at Amherst College where he paid tribute to the American poet Robert Frost, and reflected on the value of the arts to a society. It was less than a month before his assassination.

''I look forward to an America which will reward achievement in the arts as we reward achievement in business or statecraft. I look forward to an America, which will steadily raise the standards of artistic accomplishment and will steadily enlarge cultural opportunities for all of our citizens.''—John F. Kennedy.

To me, art, in all its forms, is the purest reflection of the most diverse aspects of us as individuals, as communities, as nations and as cultures. It's art that feeds and nurtures the soul of a society; provokes thought; inspires critical thinking; and fosters understanding of things foreign to our own immediate world. In the end, art plays a primary role in encouraging healthy tolerance of diversity in any culture. In times like these—in this very hour—more of this kind of encouragement would serve us well. Joseph Campbell felt that a society without mythology was doomed. I feel the same way about the role that art can play in a society's sustainable future. On the surface, it may not have the weight of the SEC, the Dept. of Defense, or Social Security and other programs that may be easier to quantify. But it is still a part of the whole. More importantly, it exemplifies one of our great, maybe our greatest critical luxuries—freedom of expression.

Throughout the 80s and into the 90s, battles over free expression were furious and frequent. On the one side, the perception that art was undermining the moral fabric of our society began to stick and took on a life of its own and it became the order of the day. When the moralistic posturing gave way to the rationale to cut funding, for a time it was the political value of attacking the arts that increased significantly in stature. By falsely positioning the debate as one of morals and money, these forces hoped to use fear to obscure the real truth—the value of art to every community—and fear is a very dangerous platform to work off of.

I wondered then, why aren't they going after tabloid media or corporate greed with such a vengeance? Why isn't there the same fervor about the dismal state of literacy in our schools, the AIDS epidemic, or homeless men, women and children? Why is the zeal not pointed at the virtual flood of guns and drugs into our nation's streets, or pollution into our air and water and the resulting public health implications? When has a painting ever instigated the destruction of a culture? Is a song or a play, a painting or a photograph that much of a threat to our nation's well-being? That notion seems particularly absurd in light of the larger threats we are currently facing.

Luckily the collective voice against this trend won out, and of course, the political winds changed substantially. And, while the cultural wars may have subsided, they still rear their ugly head too frequently. But there's more than one way to strangle the arts and today, funding cuts being discussed all across this country at all levels of government could paint a truly devastating picture when all is said and done.

As most of you know all to well, when the economy is in as bad a shape as it is now, art becomes the ''throw-away.'' Art and art education becomes the funding cut they feel won't have a tangible effect. In other words, it's the cut from which they think nobody will suffer and they think nobody will notice its absence. Well that's not true. It may take a while to get it, but society at large will suffer and I believe, society at large will ultimately notice.

Government support for the arts is not the frivolous give-away that some would have you believe. It's a good investment and it is sound economic development. Art and public policy is good business. Let's look at the financial stake government has in the arts. The non-profit arts world is roughly a $134 billion a year industry, employing millions. It generates nearly $81 billion in spending by those who partake in its cultural offerings and is responsible for some $24 billion in taxes going back to federal, state and local governments annually.

And, this doesn't take into consideration the impact the non-profit sector has as the training ground for writers, musicians, actors, dancers, painters, photographers, filmmakers and the like. It doesn't take into consideration the ultimate effect these people and their work have on a thriving multi-billion dollar private sector.

So, supporting the arts is good business and the numbers bear this out. It's also good public policy. A study by the Justice Dept., Americans for the Arts and the NEA demonstrated that arts programs helped at-risk youth stay out of trouble, perform better in school and improve how they felt about themselves and their future. How do you put a price on that?

Yet, President Bush recommended virtually no increase for arts grants administered by the NEA. President Bush also recommended terminating funding of the Arts in Education program, which is administered through the Dept. of Education. State legislatures all across the country are making substantial cuts. Several states proposed wiping out their entire state budget for the arts.

Are these federal and state governments missing something in turning their backs on the arts? You bet they are. We need people in office who will have a vision for our country that goes beyond the next election. We need people in office who understand that encouraging creative pursuit could be critical to any number of sectors, from the next great technological idea to the next historic medical discovery. How do you put a price on that?

Creativity is made all the more special because it is a great intangible. It can come from the most unlikely places and from those that might not fit the ''traditional'' model of the artist. Creativity is inherent in all great endeavors whether traditionally artistic or not. It is creativity that must continue to be nurtured if we hope to reap the benefits of the many great minds we don't yet know. How do you put a price on that?

Yes there are pressing needs all around us. But completely ceasing to fund the arts is sadly short sighted in any economy. Governments have to find a way to remain in the mix of resources for the arts and the private sector—corporations, foundations and individuals—they all need to find ways to help fill the gap during these tough times such as we're in now.

And that includes my industry, which benefits greatly from a vital and thriving artistic force. When one thinks of Hollywood, art isn't necessarily the first thing to come to mind. Some would say it is often anti-art. No. It's first a business. But it is a business that cannot exist without creative talent in every facet of the making of its product. So, in the end, the challenge to create art still rests squarely on the artist not the industry. As in any medium, sometimes we succeed and sometimes we fail. But we succeed often enough to create films that inspire, expose, transform and provoke, amuse, entertain and even teach.

Just as all other arts did at the moment of their own conception, cinema transformed the world. For good or for bad, it is a universal communicator on a global platform. Film is an indigenous American art form even though it's always been a struggle to have it taken seriously as an art form. But we can't deny that business has significantly infiltrated the practice of art in general, and in particular film. The constant talk of grosses—dollars and cents as the benchmark of a film's worth—is very debilitating to the body of serious film discussion and appreciation. And after all, where would the business of film be without art as its seed.

While mine is a somewhat solid industry, it will be important in the years to come for it to embrace risks as readily as is does, sure things. It must sure that freedom of artistic expression is honored and nurtured across a broad spectrum. I believe strongly that keeping diversity alive in my industry will keep the industry alive.

For example, the Sundance Institute is a step toward making sure diverse voices and the creative energy they bring with them are given an opportunity to grow and evolve. Those who come to the Sundance labs to make films and those who come to the Festival to show films really are a microcosm of the kind of diverse voices which our industry needs to continue to support and nurture if it wants to maintain itself. They are also the kind of voices that will join in characterizing us to the rest of the world in the years to come. It's all connected.

Even after two decades, Sundance continues to be a community work in progress, success and failure simultaneously evident, treating failure as a step toward growth, rather than the destruction of a vision. I look at the Sundance Film Festival and the innovative hustle demonstrated by scores of young filmmakers to bring their vision to the screen. They haven't curled up and died because they can't get government backing for their projects. Somehow they find a way. But I'm sure if I took a quick poll, I'd find that most of them found art, found their voice, in neighborhood, community and school arts programs. That's where they began the dance with the wonders of creativity.

By the way, I started the Sundance Institute with a grant from the NEA when many others were skeptical of the idea's potential and ultimate worth. I will always be grateful to the NEA for believing in us at the time. It was instrumental in getting us started. It wasn't just the seed funding, but the seal of approval that gave the idea impetus.

What most of you know that maybe others don't is that out there right now is some kid with a great song in their head we've yet to hear or a novel in their heart that has yet to be written. There's someone out there that hasn't picked up a paintbrush yet but has a masterpiece on the horizon. There's a kid out there who hasn't picked up a camera yet but could end up making a memorable film of their time.

What most of you know that others might not as clearly see, is that the nurturing of creativity comes into play in everything from world diplomacy to world economics, business endeavors to social endeavors and everything in between. It is creativity that gives all of it the nuance that often makes the difference. In all its forms, art plays a critical role in finding our way as people and as a culture.

As President Kennedy said that day in Amherst: ''I see little more importance to the future of our country and our civilization than full recognition of the place of the artist. If art is to nourish the roots of our culture, society must set the artist free to follow his vision wherever it takes him.''

We hear the word freedom bandied about a lot these days. It's a sacred concept. How fortunate we are to have it. How viscerally

we need to feel the commitment to protect it. To be able to be part of a freedom of expression that allows us to tell stories of our choice in the uniqueness of our own voices as citizens and as artists is not to be taken lightly. To be able to freely voice dissent in our hearts or in our art is something to protect at all costs. But then, the glory of art is that it can, not only survive change, it can inspire change.

It is for all these reasons that it behooves government to sustain an environment that enables, supports and nurtures the free and creative expression of its citizenry.

I have great hope for the future of art and thus civil society as I look out over this room, and imagine the collective power, the collective voice that will not cower in the face of budget slashing critics, and will not surrender its advocacy for art and free expression.

My hope comes from not only those gathered here tonight, but from the efforts of grassroots, state and national organizations; young artists I meet at Sundance film labs; inner-city elementary school kids who are learning to play music and write poetry; the literary and theater programs in prisons; and traveling exhibitions to rural communities all across the country.

Thank you to the co-sponsors of this evening. To Americans for the Arts my gratitude for your tireless and effective advocacy on behalf of art and all that comes with that. You truly make a difference and we're all the better for it. And to the Film Foundation a recognition and respect for the important work you do to inspire young artists through education and for protecting and restoring some of the greatest films of all time and thus enabling the diverse perspective of it all to live on.

Lastly, it is an honor to pay tribute to the memory and the contribution of Nancy Hanks whom I knew and remember fondly. Nancy Hanks had a profoundly gifted perspective on cultural policy in the United States, that being access to the arts. Her legacy is the success of many of your programs; the creative mastery of many of the artists here tonight; and the commitment to freedom of expression that we collectively embrace. The life she lived really meant something.

So we go forth here tonight to continue to try to enlighten those who dismiss the arts as unnecessary, irrelevant or dangerous. And we do so not only in the memory of Nancy Hanks, but in the name of the active and deserving imagination of every American child.

REMEMBERING THE HEROES OF THE SECOND WORLD WAR

Mr. LIEBERMAN. Mr. President, I wish to recognize a small group of heroes who are gathering this Saturday at the Jefferson Barracks National Cemetery to honor their fallen comrades and to ensure that future generations of Americans remember the tremendous sacrifices of those who served in the Pacific theater during the Second World War.

These former heroes—prisoners of war all—will dedicate a plaque that marks a humble grave within the sea of headstones of those who made the ultimate sacrifice on behalf of a grateful nation. The inscription of the plaque reads:

VICTIMS OF THE JAPANESE MASSACRE, PUERTO PRINCESA, PALAWAN, P.I., DECEMBER 14, 1944

These U.S. prisoners of war of the Japanese were on the island of Palawan, P.I., as slave laborers building an airfield for the Japanese military. Believing that an invasion by the U.S. forces was imminent, the prisoners were forced into three tunnel air raid shelters, thus following orders from the Japanese High Command to dispose of prisoners by any means available. Buckets of gasoline were thrown inside the shelters followed by flaming torches. Those not instantly killed by the explosions ran burning from the tunnels and were machine gunned and bayoneted to death.

Only a few survived this horror. Amongst those who did was Mr. Dan Crowley of Simsbury, CT. I thank Mr. Crowley for sharing his experiences with my staff and I, and educating all of us about an important event in U.S. history.

Few words can truly express the horror that those 123 soldiers, sailors, and marines must have suffered as they were cut down in their service to their country. I stand today and offer my respects to the memories of these valiant men and their families. Their story serves to remind all of us of the price of freedom and the sometimes tragic fate of those who have paid its ransom for us all.

DC VOUCHERS

Mr. CORZINE. Mr. President, I would like to take a few moments to discuss my opposition to the voucher provision in the D.C. appropriations bill.

Our government promises every child in the United States a free and appropriate public education. The very idea that Federal funds that should be going to our Nation's public schools to fulfill that promise will instead be siphoned away to private schools is of great concern to me.

As a product of public schools, and the child of a public school teacher, I am a strong supporter of the public school system. I often say that while we cannot be a Nation of equal outcomes, we can and must be a Nation of equal opportunities. Our public schools are the key to equal opportunity for all American children.

Although the voucher program we are discussing today would only impact the District of Columbia, it clearly would have national implications. It is a calculated first step toward broader voucher programs, which would drain resources from our public schools—the very schools that are free and open to all children, and accountable to parents and taxpayers.

Simply put, vouchers are not the answer to our educational ills—they are bad education policy driven by ideological goals.

Wouldn't our energy be better focused on strengthening our public schools, which can and do succeed with adequate resources? To succeed, schools need high-quality teachers, a rigorous curriculum, high expectations, parental involvement, and effective management. All of these require adequate resources.

In 2001, Congress passed the No Child Left Behind Act, which was intended to reform public education by establishing high standards for every student, providing Federal incentives to boost low-performing schools, and creating accountability.

Unlike vouchers, which even supporters acknowledge would reach only a small fraction of children, No Child Left Behind was intended to implement proven, effective reforms in all schools not just for a few students, but for all students.

But the administration and this Congress are not living up to the promise of No Child Left Behind and are underfunding it by over $8 billion. This leaves millions of children behind and places additional burdens on already burdened State and local education budgets.

And, on top of underfunding No Child Left Behind, we are now considering giving funds to schools that are not even subject to its provisions.

As we know, No Child Left Behind would ensure oversight and accountability, including testing standards and teacher qualification standards. But the voucher program we are considering today does not provide the same system of accountability or oversight of these private schools, nor does it set the same criteria for the very people that will be teaching our children.

In fact, this bill allows any private school to apply to participate in the program, but there is no evaluation process before they are accepted to participate. This leaves D.C. children vulnerable to poor-performing schools.

I ask proponents of the bill: How can we ask our public schools to fulfill the significant mandates of No Child Left Behind, when we are refusing those schools adequate funds and at the same time giving Federal money to schools that are not even required to abide by many of its mandates?

Proponents of the voucher program say that it provides parents with ''choice'' that they do not currently have. This is simply not true. The District of Columbia already offers three alternatives to traditional public schools. First, D.C. has the largest number of public charter schools per capita in the Nation. If we pass this voucher program, these charter schools will remain underfunded. Yet we still want to give private schools money.

Second, D.C. has established 15 public transformation schools that have, for the first time ever, succeeded in raising the scores of low-income children in low-performing schools. Again, however, the very programs in these transformation schools that have succeeded are now seeing cuts in funding. Yet we still want to give private schools money.

Finally, D.C. allows parents who are not content with their neighborhood school to send their child to out-of-boundary schools that are accountable to public education standards. Yet we still want to give private schools money.

If this is not school choice, then what is? Why can't we give these types of

schools a chance to succeed rather than undermining them and draining funds from their already successful programs?

Proponents of vouchers also claim that the program in this bill is a pilot program and should be given a chance. But Milwaukee and Cleveland both tried to implement a voucher program, and a GAO study of the programs in these two cities found no or little difference in voucher and public school students' performance.

Our cities have tried vouchers and have not succeeded. Our children should not be guinea pigs for programs that have simply not been proven effective at raising academic achievement.

I am not the only one opposed to this program. My friend and colleague in the House of Representatives, ELEANOR HOLMES NORTON, along with the majority of the D.C. City Council and School Board, also oppose any voucher program. In addition, the residents of the District of Columbia are overwhelmingly opposed to private school vouchers.

Let's not turn D.C. into a laboratory for school vouchers. Vouchers are not the solution to improving educational opportunity in D.C. or anywhere else in America. Let's instead focus on fulfilling the promise of No Child Left Behind by fully funding it, and giving our public schools the resources they need to truly succeed.

MOTHER TERESA: A BELOVED SAINT FOR OUR TIME

Mr. HARKIN. Mr. President, on October 19, Mother Teresa of Calcutta will be officially beatified in Rome. I say ''officially,'' because in the eyes of so many people around the world, Catholic and non-Catholic alike, she is already recognized as an extraordinary saint. She is, without question, one of the most beloved individuals of our time.

Why is this? By all means, her accomplishments are well known and respected. Mother Teresa founded the Missionaries of Charity and oversaw the organization's amazing growth. By the time of her death, the order had grown to include more than 5,000 sisters, brothers, and volunteers, operating some 500 centers around the world. Even here in Washington, DC, we witness Missionaries of Charity on the streets of this city, tending to the homeless and feeding the hungry.

But there is another reason why this woman is so beloved. It is because we live in a world of such extraordinary material abundance, a world that prizes youth and health. And yet here was a woman who willingly and lovingly embraced poverty, and devoted her life to the old, the sick, and the dying. And more than that, she inspired thousands of people all across the world to join her in that mission.

I remember hearing about a journalist who visited one of Mother Teresa's hospices in Calcutta. He watched as one of the sisters bathed and dressed the terrible wounds of a leper who was near death. The journalist said to the sister, ''You know, I wouldn't do that for all the money in the world.'' To which the sister answered, ''Neither would I.''

In 1979, when Mother Teresa accepted the Nobel Peace Prize, she said:

> I chose the poverty of poor people. But I am grateful to receive the Nobel Prize in the name of the hungry, the naked, the homeless, the blind, the lepers, all the people who feel unwanted, unloved, uncared for throughout our society, people that have become a burden to society and shunned by everyone.

That is just an amazing statement, an amazing testament. Mother Teresa was powerfully motivated by the words of Jesus in the Gospel of Matthew, ''As you did for the least of these your brethren, you did on to me.'' And just as Jesus inspired Mother Teresa, the soon-to-be Saint Teresa of Calcutta inspires all of us. She is a saint for all time, but she speaks with special urgency to us today.

NATIONAL SPINA BIFIDA AWARENESS MONTH

Mr. DODD. Mr. President, I rise today to remind my colleagues that October is National Spina Bifida Awareness Month and to pay tribute to the more than 70,000 Americans and their family members who are currently affected by Spina Bifida—the Nation's most common, permanently disabling birth defect.

Spina bifida is a neural tube defect that occurs when the central nervous system does not properly close during the early stages of pregnancy. Spina bifida affects more than 4,000 pregnancies each year, with 1,500 babies born with spina bifida each year. There are three different forms of spina bifida with the most severe being myelomeningocele spina bifida, which causes nerve damage and severe disabilities. This severe form of spina bifida is diagnosed in 96 percent of children born with this condition. Between 70 and 90 percent of the children born with spina bifida are at risk of mental retardation when spinal fluid collects around the brain.

The exact cause of spina bifida is not known, but researchers have concluded that women of childbearing age who take daily folic acid supplements reduce their chances of having a spina bifida pregnancy by up to 75 percent. Progress has been made convincing women of the importance of consuming folic acid supplements and maintaining diets rich in folic acid. However, this public education campaign must be enhanced and broadened to reach segments of the population that have yet to heed this call.

Although folic acid consumption reduces the risk and incidence of spina bifida pregnancies, we will still have babies born with spina bifida who need intensive care and families that need guidance and support in caring for and raising these children. The result of this neural tube defect is that most babies suffer from a host of physical, psychological, and educational challenges, including paralysis, developmental delay, numerous surgeries, and living with a shunt in their skulls in an attempt to ameliorate their condition. Today, approximately 90 percent of all babies diagnosed with this birth defect live into adulthood, approximately 80 percent have normal IQs, and approximately 75 percent participate in sports and other recreational activities. With proper medical care, people who suffer from spina bifida can lead full and productive lives. However, they must learn how to move around using braces, crutches or wheelchairs, and how to function independently. They also must be careful to avoid a host of secondary health problems ranging from depression and learning disabilities to skin problems and latex allergies.

After decades of poor prognosis and short life expectancy, breakthroughs in research combined with improvements in health care and treatment children with spina bifida are now living long enough to become adults with this condition. Yet, with this extended life expectancy people with spina bifida now face new challenges in the fields of education, job training, independent living, health care for secondary conditions, aging concerns, and other related issues.

I am grateful for my colleague from Missouri, Senator BOND who, along with myself, sponsored the Birth Defects and Developmental Disabilities Prevention Act of 2003, S. 286. This important legislation helps prevent spina bifida as well as meets the current and growing needs of individuals with spina bifida live active, productive, and meaningful lives. Our legislation helps those with spina bifida and their families learn how to treat and prevent secondary health problems which range from learning disabilities and depression to severe allergies, and respiratory and skin problems that make life difficult and at times, fraught with danger that make life difficult for these patients by authorizing the National Spina Bifida Program at the Centers for Disease Control and Prevention, CDC. All of these problems can be treated or prevented, but only if those with spina bifida are properly educated and taught what they need to do to keep themselves healthy. The national program focuses and coordinates the agency's efforts to educate health care providers about the range of spina bifida issues—including the availability of in utero surgery—as well as help promote the dissemination of information regarding how to prevent the myriad complications of the condition.

Last year, I chaired a hearing of the Committee on Health, Education, Labor, and Pension's Subcommittee on Children and Families on birth defects, in which Connecticut resident Fred Liguori's testimony provided a parent's

valuable perspective on spina bifida. After losing two pregnancies, the Liguori's were informed their unborn child had spina bifida. After careful consideration and information from the SBAA, the Liguoris elected to proceed with in utero surgery that could reduce the effects of spina bifida. Since the late 1990s, doctors at four U.S. hospitals have been operating before birth on babies diagnosed with spina bifida. By closing the spinal lesion early in pregnancy, these doctors believe they can minimize the damage created by fluid leaking from the spine, as well as by the spinal cord's contact with amniotic fluid. Surgeons have found that closing the hole in the spine in this fashion before birth may correct breathing problems in 15 percent of the children receiving the procedure and may reduce the need for a shunt to drain brain fluid build up by between 33 percent and 50 percent. While the in utero surgery was successful, their three-year-old son still requires extensive therapy and medical attention. Fred Liguori's testimony made it clear that a national spina bifida program is critically needed for the prevention of this condition and to improve the quality of life for those individuals and their families living with spina bifida. Fortunately, in fiscal year 2003, Congress was wise to provide $2 million in funding to establish and support a national spina bifida program and is poised to provide a much-needed increase in funding for fiscal year 2004. The House provided a $500,000 increase while the Senate included a total of $3 million for the program for fiscal year 2004. I strongly urge my colleagues to support the Senate allocation as this level of funding is needed to ensure that the CDC has the resources necessary to support and expand its comprehensive efforts to prevent spina bifida, improve quality-of-life for those living with the condition, and to deliver important public health messages to those communities most at-risk for a spina bifida pregnancy.

I want also to recognize the special work of the Spina Bifida Association of America, SBAA, an organization that has helped people with spina bifida and their families for nearly 30 years, working every day—not just in the month of October—to prevent and reduce suffering from this devastating birth defect. The SBAA was founded in 1973 to address the needs of the individuals and families affected by and is currently the only national organization solely dedicated to advocating on behalf of the spina bifida community. As part of its service through 60 chapters in more than 100 communities across the country, the SBAA puts expecting parents in touch with families who have a child with spina bifida. These families answer questions and concerns and help guide expecting parents. The SBAA then works to provide lifelong support and assistance for affected children and their families.

Together the SBAA and the Spina Bifida Association of Connecticut, SBAC, work tirelessly to help families meet the challenges and enjoy the rewards of raising their child. I would like to acknowledge and thank SBAA and the SBAC for all that they have done for the families affected by this birth defect, especially those living in my State. I would also like to commend the leadership of Hal Pote, President of the Spina Bifida Foundation—uncle of Greg Pote who lives with spina bifida, Alex Brodrick, President of the Spina Bifida Association of America, father of Joel Brodrick who lives with spina bifida, and Cindy Brownstein who serves as Chief Executive Officer of the SBAA. The spina bifida community and our Nation owe a tremendous debt to the SBAA for its work over the past three decades.

As a Nation, we have accomplished a great deal in our battle against birth defects. However, much more work remains to be done. I urge all of my colleagues and all Americans to endorse the important efforts to prevent spina bifida but also to support those already living with this often debilitating birth defect. Those living with spina bifida and their loved ones deserve our utmost support. It is my hope that by recognizing National Spina Bifida Awareness Month we can move closer to the laudable goal of eventually eliminating the suffering caused by this terrible birth defect.

NICS IMPROVEMENT ACT

Mr. LEVIN. Mr. President, I bring the National Instant Criminal Background Check Improvement Act, formerly called the Our Lady of Peace Act, to the attention of my colleagues. On March 12, 2002, a priest and a parishioner were killed at the Our Lady of Peace Church in Lynbrook, NY, by a man who was able to obtain a gun despite the fact that he had a prior disqualifying mental health commitment and a restraining order that should have prevented him from purchasing a gun. The man who committed this double murder passed a Brady background check because the NICS database did not have the necessary information to determine that he was ineligible to purchase a firearm.

The NICS Improvement Act would provide funding to fix the hole in the current NICS background check system caused by the failure of many states to computerize and update their criminal history records. While the Brady check system currently provides fast responses to firearms dealers for over 90 percent of gun purchasers within a few minutes, responses are occasionally delayed because information concerning state and local convictions is not up-to-date or available. This can result in delays for some who lawfully seek to purchase a gun and the failure to block gun sales to some unlawful purchasers. To fix this problem States need adequate funding to input and update criminal history data. This bill would provide $1 billion to help States do just that.

This is not a small problem. According to Americans for Gun Safety, 25 States have automated less than 60 percent of their criminal conviction records. Twenty States do not automate domestic violence or temporary restraining order records. This shortcoming in our public safety system, according to AGS statistics, has allowed over 10,000 prohibited buyers to obtain a gun because the background check could not be completed within the three business days as required by the law.

The NICS Improvement Act has been sponsored by Senators on both sides of the aisle, and I urge my colleagues to support it.

ADDITIONAL STATEMENTS

TRIBUTE TO ALTHEA GIBSON

● Mr. LAUTENBERG. Mr. President, I rise today to mourn the loss of Althea Gibson, a sports legend in professional tennis and golf and a pioneer for African-Americans in all walks of life. Ms. Gibson passed away in East Orange this past Sunday after suffering from respiratory complications.

Althea Gibson was born on a cotton farm in Silver, SC, in 1927 but spent most of her childhood in Harlem, NY. She eventually moved to New Jersey.

At an early age, Althea Gibson showed great promise in sports. Her favorite was basketball but she excelled at table tennis, too. Musician Buddy Walker noticed her ability and gave her a tennis racket as a gift when she was 14. The harsh reality of racial segregation left her unable to play tennis on public courts while growing up. Fortunately, two prominent African-American doctors had a private tennis court and gave Ms. Gibson the opportunity to play tennis there.

By the early 1940s, Ms. Gibson began her tennis career as an amateur, playing in tournaments organized by the American Tennis Association, ATA, a predominantly African-American organization.

In 1947, she won the first of 10 straight ATA National Championships. Within a few years, Ms. Gibson was ready to compete outside of the ATA.

Her talent and record should have been sufficient for her to compete against white players in tournaments sanctioned by the United States Lawn Tennis Association, USLTA. But it took the help of Alice Marble, a champion tennis player herself, who wrote an article in American Lawn Tennis magazine. Ms. Marble noted that Gibson wasn't invited to participate in the USLTA championships for any reason other than ''bigotry.'' Ms. Marble wrote, ''I think it's time we face a few facts . . . If tennis is a game of ladies and gentlemen, it's time we acted in a gentle manner, not like sanctimonious hypocrites.''

Ms. Gibson finally received an invitation to play in the 1950 National Tennis

Championships and made her historic debut at Forest Hills against Louise Brough, who had just won her third consecutive Ladies' Singles Championship at Wimbledon.

One year later, Ms. Gibson became the first African-American to compete at Wimbledon.

Between 1956 and 1958, she dominated the world of tennis, becoming the first African-American to win major tournaments, including the French Open singles and doubles, the Italian Open singles, Wimbledon singles and doubles, and the U.S. Open singles.

She was selected as the Associated Press Athlete of the Year in 1957 and again in 1958, the first African-American woman to be so honored.

Despite her success and fame, she encountered pernicious segregation throughout her career. Oftentimes when she competed at tournaments, she couldn't stay at the hotels the white players used, or join them for meals at restaurants. But her strength of character, her poise, and her determination carried her though such indignities. And she was gracious, too, writing in her autobiography, ''I Always Wanted To Be Somebody'': ''If I made it, it's half because I was game enough to take a lot of punishment along the way and half because there were a lot of people who cared for me.''

In 1958, Ms. Gibson retired from amateur tennis and began a short-lived career in professional basketball for the Harlem Globtrotters. She also pursued a professional career in golf, becoming the first African-American woman on the Ladies Professional Golf Association, LPGA, tour in 1962.

Over the years, Ms. Gibson received many awards and accolades. Some of her most esteemed awards were her induction into the National Lawn Tennis Association Hall of Fame, the International Tennis Hall of Fame, the Black Athletes Hall of Fame, and the International Sports Hall of Fame.

Just a few weeks ago I was eulogizing another New Jerseyan who broke the color barrier, my friend Larry Doby, who played baseball for the Cleveland Indians. What Larry Doby and Jackie Robinson did for baseball, what Jesse Owens did for track and field, Althea Gibson did for tennis. She paved the way for Arthur Ashe, Zina Garrison, and Venus and Serena Williams.

Althea Gibson could have rested on her laurels. But her work wasn't done when she retired from the world of professional sports. She was the New Jersey State Commissioner of Athletics for 10 years (the first African-American woman to hold the post) and served on both the New Jersey State Athletics Control Board and the Governor's Council on Physical Fitness.

The Althea Gibson Foundation, created in her honor and based in Newark, NJ, lives on, helping urban youth develop their tennis and golf skills and improve their lot in life.

It is clear that the life Ms. Gibson led has served as an inspiration for African-Americans and all people. While I am saddened by her death, I am glad that she graced us with her presence. Ms. Gibson taught each of us that ''without struggle there can be no progress.'' She struggled, she succeeded, and we are all better for it.●

TRIBUTE TO DR. BARBARA LAZARUS

● Mr. BINGAMAN. Mr. President, I rise today to pay a special tribute to one of the true educational leaders of our time, Dr. Barbara Lazarus, whose contribution to expanding educational access for women and people of color has been immeasurable. It is not often that a single individual envisions how the world can be more just, has the talent to implement that vision, and conveys the passion that attracts others to the cause. Dr. Lazarus embodied all of these attributes and more, working tirelessly for inclusion and understanding.

Dr. Lazarus, an educational anthropologist, served as the associate provost for academic affairs at Carnegie Mellon University until her untimely death this past July. While at Carnegie Mellon, she became a nationally recognized leader in promoting women in science and engineering, and she won Carnegie Mellon's Doherty Prize, the university's highest honor for educational contributions. Dr. Lazarus touched the lives of hundreds of students and staff through her efforts to give women and minorities increased access to nontraditional occupations. Her commitment to promoting women and minorities in science and engineering has had an important impact throughout American higher education, as programs she created to overcome barriers have been replicated across the country.

Also concerned with reaching children, especially girls, she invented ''Explanatoids,'' short lessons explaining the science behind everyday phenomena, from roller coasters to curve balls. This project, too, is being replicated at playgrounds and other institutions, including the Smithsonian's Air and Space Museum.

Prior to joining Carnegie Mellon, Dr. Lazarus was the director of the Center for Women's Careers at Wellesley College where her groundbreaking work focused on the role of professional women in a global, multicultural society. She became the codirector and the only non-Asian member of the Asian Women's Institute Commission on Women and Work. In that capacity, she organized meetings in several Asian countries that brought together women scholars, government leaders, and activists to address the challenge of moving Asian women from traditional to nontraditional roles, particularly in the workplace.

Throughout her career, Dr. Lazarus wrote books, articles, and gave hundreds of talks to share her ideas and inspire others in this work. She will be missed by her family, as well as the hundreds of friends, faculty, and students who were inspired by her counsel. And she will be missed by all of us for her significant contributions addressing important issues of our time, and general improvement of our human condition.●

LOCAL LAW ENFORCEMENT ACT OF 2003

● Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred in Lincoln, RI. On August 28, 2000, Jesse Ousley, a gay teenager, was severely beaten by a police officer using antigay invectives. Ousley received a bloody nose, two black eyes, and numerous contusions, including marks on his neck, allegedly from the police officer's attempt to strangle him.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.●

IN RECOGNITION OF THE NAAMANS LITTLE LEAGUE

● Mr. CARPER. Mr. President, on behalf of Senator BIDEN and myself, I congratulate Coaches Joe Mascelli, Bob Waters and H.J. Lopes, and the Naamans Little League team. Their accomplishment of becoming the first Delaware team to reach the Little League World Series demonstrates the success that comes from hard work, perseverance, dedicated coaching, and the support of parents and fans.

The Little League World Series, held during the month of August in Williamsport, PA, ended a dramatic, record-breaking season for the Naamans Little League team. The Delaware State champions and Mid-Atlantic regional champions final overall record through district, state, regional, and world series play was 14–3. They finished their world series experience at 1–2, with a win over Iowa and losses to Arizona and Texas.

This year, the Mid-Atlantic Regional championship team consisted of 12 players: Jarad Carney, Kevin Czachorowski, Scott Dougherty, Cory Firmani, Constantine Fournaris, Danny Frate, Michael Julian, Zack Lopes, Tim Marcin, Dave Mastro, Vince Russomagno, and Kip Skibicki.

Coach Mascelli said his team gained a lot from this experience, both on the field and off the field. One of the highlights was the tremendous outpouring

of fan support, not just from residents of Delaware, but also from people around the nation and the world. They were flooded with letters and emails from states across the nation, including California, and countries as far away as Germany. Coach Mascelli also said his players received an education beyond baseball. They all handled their celebrity status with the public and the media with a maturity well beyond their years. The team's objective at the Little League World Series was to represent the state of Delaware with class and dignity. We are proud to say that the Naamans team accomplished just that.

Today, we congratulate the Naamans Little League and coaches Mascelli, Lopes, and Waters. They accomplished something that no other Delaware team has done, and they made each one of us proud.●

TRIBUTE TO HUGH GREGG

● Mr. SUNUNU. Mr. President, on Wednesday I introduced S. 1692, to designate the U.S. Post Office Building at 38 Spring Street in Nashua, NH as the ''Hugh Gregg Post Office Building,'' and honor one of our State's most beloved and hardest working public servants.

On September 24, New Hampshire lost one of its great citizens, statemen, and historians when Hugh Gregg passed away at the age of 85. Hugh Gregg was an alderman and then mayor of his hometown of Nashua, leading the city through a time of economic transition by bringing prosperity back to the mill yards lining the Merrimack River in Nashua after they had gone in silent in the 1940s. He was elected the youngest Governor in New Hampshire history at the age of 34, then returned to the private sector to pursue successful ventures as a lawyer and businessman. It was at this point that Hugh Gregg began to evolve into one of the most important figures in New Hampshire history.

Hugh Gregg's love of New Hampshire and politics inspired his passion for preserving, and often-times defending New Hampshire's first-in-the-nation Presidential primary. He was involved formally and informally with many campaigns over the years, and was a virtual encyclopedia of knowledge regardingthe history of New Hampshire's unique role in electing Presidents of the United States. In 1998 Hugh Gregg, who is often referred to as the Godfather of the New Hampshire primary, help found the New Hampshire Political Library, which was and is the only nonpartisan, nonprofit institution in the State dedicated to politics and the primary.

Hugh Gregg held high the New Hampshire values of honesty, frankness and caring throughout a life of political, business, and community leadership. I was just one among his countless friends who turned to him for his advice and perspective over the years, receiving sound counsel often accompanied by a touch of dry wit. My thoughts and prayers go out to Hugh Gregg's wife, Cay, his son and our colleague in the Senate, JUDD GREGG, and the entire Gregg family. My family and I, and all of New Hampshire will miss Hugh Gregg very much.

Mr. President, naming the Post Office in Nashua for Hugh Gregg is an appropriate way to remember the life of one of New Hampshire's most enduring and endearing personalities. I ask that my colleagues in the House and Senate move quickly to pass this legislation in his honor.●

MAJOR GENERAL ARNOLD L. PUNARO

● Mr. WARNER. Mr. President, on October 14, 2003, at Marine Barracks 8th & I, Washington, D.C.—the oldest post in the U.S. Marine Corps—GEN James L. Jones, Supreme Allied Commander Europe and Commander, U.S. European Command and the former Commandant of the Marine Corps will officiate at a retirement ceremony for MG Arnold L. Punaro. GEN Punaro is completing 35 years of superlative commissioned service in the United States Marine Corps and is someone I have worked with both in and out of uniform for over 25 of these years. Contingent on the Senate schedule, I intend to be present and join his many friends in wishing him and his family fair winds and following seas.

Many here will recall Arnold's outstanding 24 year career in the U.S. Senate working for our former Senate Armed Services Committee Chairman, Senator Sam Nunn. He started as an intern in Senator Nunn's office in 1973, and rose to become Staff Director of the Senate Armed Services Committee. During that 24-year period he was involved in every major national security decision and set a standard of excellence and leadership that few others achieve. While he came from Georgia, I am proud to say he has been a Virginia resident for 30 years and someone with whom I worked closely during his years in the Senate.

Simultaneously, he was engaged in a highly successful career in the United States Marine Corps which he entered out of college in 1968. At the peak of the draft, he was a volunteer into a tough outfit that I know well. He was an infantry platoon commander in combat in Vietnam where he was wounded in battle and decorated for heroism.

Following active duty service, he went into the reserves in 1973. Over the next 30 years he would serve with distinction in both command and staff billets to include mobilization for Desert Shield/Desert Storm in 1990. He also was mobilized in 1993 to serve as the Commander of Joint Task Force Provide Promise, Forward, in command of all U.S. troops serving in the former Yugoslavia and in Macedonia. His command was part of a multi-national force and provided much needed stability in that region.

He was promoted to general officer in 1994, and served as Commanding General of several major commands for 5 of his 9 years as a general. Just as he was the longest serving Staff Director of the Senate Armed Services Committee, he had the longest tenure as Commanding General of the 4th Marine Division—one of the legendary divisions of World War II Iwo Jima fame. Today this division has over 20,500 Marines and Sailors located in 105 cities and 38 states. The vast majority fought in Operation Iraqi Freedom. Under his leadership, the 4th Division's warfighting readiness was significantly improved as was demonstrated in Iraq and, upon his departure, he turned over an organization that had achieved the highest readiness ratings that DoD provides.

That does not surprise any of us who worked closely with him over the years because he was known as someone who always had a vision and knew how to get things done—both strategically and tactically. He was direct, forceful, and always focused on reaching the goal.

He was most recently mobilized—for the third time in his reserve career—for Operation Enduring Freedom and Operation Iraqi Freedom as both the U.S. Marine Corps Director of Reserve Affairs and a Special Assistant to the Supreme Allied Commander, Europe. During this period the U.S. Marine Corps had the largest call-up of its reserves in their history with a 99 percent show-rate, a rapid deployment to their operational assignments faster than required and great success in combat operations. His experience and leadership were crucial in both the mobilization and demobilization phase.

During this same period his oldest son, Joe Punaro, a 2LT in the Marine Corps was serving as a platoon commander in Iraq in the same Regiment his father served in Vietnam—the 7th Marines of the 1st Marine Division. Joe worked for me as an intern in 2000 and I had the pleasure of visiting with him in Kuwait prior to the invasion. Arnold's daughter Julie is student teaching at Thomas Jefferson High School; daughter Meg is at Mary Washington College and plays on their field hockey team which is in the top ten, and son Daniel is a senior in high school and an aspiring college lacrosse player. His wife Jan has kept them all on this highly successful course.

MG Punaro has now completed two outstanding careers—one in the Senate and one in the Marine Corps. He is a superb leader, thinker and doer. He is now on his third career as a senior executive for a key Virginia company.

On behalf of the members of the Senate Armed Services Committee and Staff as well as the Senate, I want to extend our deepest congratulations and the gratitude of a grateful Nation.●

HONORING OUR ARMED FORCES

• Mrs. LINCOLN. Mr. President, in recent months I have risen on several occasions to pay tribute to the men and women who are fighting in Iraq and elsewhere in the global war on international terror. Today I rise once again to pay tribute and to honor a young man who was recently killed in action in Iraq—Dustin K. McGaugh. Dusty was killed Tuesday near Balad, Iraq. He was 20 years old.

Dusty grew up in Springdale, AR, and graduated from high school in Tulsa, OK. After graduation, he joined the Army ROTC. His father, James McGaugh, told one newspaper in Arkansas that Dusty joined the Army because he was looking for direction in life and because he ''wanted to serve and be part of something important.'' Dusty enlisted shortly before September 11, 2001—in fact, when the terrorist attacks occurred on that horrible day, he was undergoing basic training in boot camp. One newspaper account quotes a close friend who told of Dusty being so dedicated to his Army service that he finished his last three weeks of basic training after breaking his shin bone in a fall. Dusty decided not to report his injury, so that he might graduate from basic training on time with his colleagues. He graduated with special honors. In April of this year, Dusty's unit—the U.S. Army 17th Field Artillery Brigade—was deployed to the Middle East. He accepted his mission with pride and served with honor.

Dusty is survived by his father James of Springdale; his brother, James McGaugh, of Claremore, OK; his mother, Marina Hayes, of Tulsa; his stepmother, Katrina McGaugh, of Springdale; and a twin sister, Windy McGaugh, of Derby, KS. I ask my colleagues to join me in extending our deepest condolences to Dusty's family and friends.

When he learned that he would be going to Iraq, Dusty reportedly told one friend, ''I believe in this. I want to serve our country.'' His resolve and his commitment to his country will not be forgotten. The mission continues in Iraq, and we remain confident that Dusty McGaugh's courage and sacrifice will have been given in a worthy cause.•

• Mr. JOHNSON. Mr. President, I rise today to honor SSG Daryl Devries of Armour, SD. Staff Sergeant Devries was recently awarded the Purple Heart for injuries suffered while serving in Iraq.

Daryl was injured when a rocket-propelled grenade struck the Humvee he was riding in while on security patrol in northern Iraq. Daryl, who is a member of the 200th Engineer Company, was sent to Iraq in April to help assemble and secure a bridge across the Tigris River.

The Purple Heart was established by General George Washington at Newburgh, NY, on August 7, 1782, during the Revolutionary War. The Purple Heart, which is awarded to a member of the Armed Forces who is wounded or killed in an armed conflict, is unique in that an individual is not recommended for the decoration; rather they are entitled to it. Daryl joins a heroic and honorable group of soldiers who have sacrificed their own wellbeing in service to our country.

Let me also express my admiration for the South Dakota National Guard. With 750 members of the National Guard serving in Iraq, South Dakota has one of the highest rates of mobilization in the Nation. This high rate of service is a reflection of the hard work and pride South Dakota National Guard members maintain. These brave and accomplished servicemen and women regularly win national awards and rank at or near the top in National Guard performance tests and competitions. They represent South Dakota principles with remarkable distinction.

I know Staff Sergeant Devries is a valued member of the South Dakota National Guard. As the father of a soldier who has recently returned from active duty service in Iraq, I am especially appreciative of his skilled and courageous actions. This prestigious award is a reflection of his military professionalism and extraordinary bravery.

Mr. President, I join with all South Dakotans in expressing my gratitude to Staff Sergeant Devries. We are all proud and thankful for all that he has done and continues to do in the service of the United States of America.•

• Mr. JOHNSON. Mr. President, I rise today to honor SP Tyler Campbell of Lemmon, SD. Specialist Campbell was recently awarded the Purple Heart for injuries suffered while on patrol in northern Iraq in July.

Tyler, who is a member of the 854th Quartermaster Company, was sent to Iraq in April to help assemble and secure a 300-meter bridge across the Tigris River.

The Purple Heart, which was established by General George Washington at Newburgh, NY on August 7, 1782, during the Revolutionary War, is awarded to a member of the Armed Forces who is wounded or killed in an armed conflict. Tyler richly deserves this prestigious award, and joins a honorable group of soldiers who have admirably sacrificed their own safety while serving our country.

Let me express my admiration for the South Dakota National Guard. With 750 members of the National Guard serving in Iraq, South Dakota has one of the highest rates of mobilization in the Nation. This high rate of service is a reflection of the hard work and pride South Dakota National Guard members maintain. These brave and accomplished servicemen and women regularly win national awards and rank at or near the top in National Guard performance tests and competitions. They represent South Dakota principles with remarkable distinction.

I know Specialist Campbell is a valued member of the South Dakota National Guard. As the father of a soldier who has recently returned from active duty service in Iraq, I am especially appreciative of his skilled and courageous actions. This prestigious award is a reflection of his military professionalism and extraordinary bravery.

Mr. President, I join with all South Dakotans in expressing my gratitude to Specialist Campbell. We are all proud and thankful for all that he has done and continues to do in the service of the United States of America.•

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 1:16 p.m., a message from the House of Representatives, delivered one of its clerks, announced that the House has agreed to the following concurrent resolution:

S. Con. Res. 71. Concurrent resolution providing for a conditional adjournment or recess of the Senate.

ENROLLED BILL SIGNED

The following enrolled bill, previously signed by the Speaker of the House, was signed on October 2, 2003, by the president pro tempore (Mr. STEVENS):

H. R. 2826. An act to designate the facility of the United States Postal Service located at 1000 Avenida Sanchez Osorio in Carolina, Puerto Rico, as the ''Roberto Clemente Walker Post Office Building''.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–4643. A communication from the Chairman, International Trade Commission, transmitting, pursuant to law, the Commission's report on The Impact of the Caribbean Basin Economic Recovery Act (CBERA); to the Committee on Finance.

EC–4644. A communication from the Chairman, International Trade Commission, transmitting, pursuant to law, the Commission's report on the Andean Trade Preference Act (ATPA)—Impact on U.S. Industries and Consumers and on Drug Crop Eradication

and Crop Substitution; to the Committee on Finance.

EC–4645. A communication from the Chairman, International Trade Commission, transmitting, pursuant to law, the Commission's Strategic Plan which covers the fiscal period 2003 through 2008; to the Committee on Finance.

EC–4646. A communication from the Assistant Secretary, Legislative Affairs, transmitting, pursuant to the Arms Export Control Act, the report of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more to Taiwan; to the Committee on Foreign Relations.

EC–4647. A communication from the Assistant Secretary, Legislative Affairs, transmitting, pursuant to the Arms Export Control Act, the report of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more to Algeria and the United Kingdom; to the Committee on Foreign Relations.

EC–4648. A communication from the Assistant Secretary, Legislative Affairs, transmitting, pursuant to the Arms Export Control Act, the report of a proposed license for the export of defense articles that are firearms controlled under category I of the United States Munitions List sold commercially under a contract in the amount of $1,000,000 or more to Colombia; to the Committee on Foreign Relations.

EC–4649. A communication from the Assistant Secretary, Legislative Affairs, transmitting, pursuant to the Emergency Wartime Supplemental Appropriations Act, the report of a license for the export of items in the national interest of the United States to Iraq; to the Committee on Foreign Relations.

EC–4650. A communication from the Director of the Office of Personnel Management and the Secretary of the Treasury, transmitting, pursuant to law, a report relative to funding for benefits attributable to the military service of current and former employees of the Postal Service; to the Committee on Governmental Affairs.

EC–4651. A communication from the Archivist of the United States, transmitting, the Strategic Plan of the National Archives and Records Administration; to the Committee on Governmental Affairs.

EC–4652. A communication from the Postmaster General, United States Postal Service, transmitting, pursuant to law, two reports relative to military service of current and former Postal Service employees and a proposal to expend savings accrued to the Postal Service as a result of P.L. 108-18; to the Committee on Governmental Affairs.

EC–4653. A communication from the Chairman, National Capital Planning Commission, transmitting, a report entitled ''Designing for Security in the Nation's Capitol''; to the Committee on Governmental Affairs.

EC–4654. A communication from the Secretary of Labor, transmitting, pursuant to law, a letter relative to the Department of Labor's expenditure of a portion of the special $1000 filing fees paid by employers who seek access to H-1B nonimmigrant employees; to the Committee on Health, Education, Labor, and Pensions.

EC–4655. A communication from the Secretary of Labor, transmitting, the Department of Labor's Strategic Plan for Fiscal Years 2003 through 2008; to the Committee on Health, Education, Labor, and Pensions.

EC–4656. A communication from the Railroad Retirement Board, transmitting, the Board's Strategic Plan for 2003 through 2008; to the Committee on Health, Education, Labor, and Pensions.

EC–4657. A communication from the Regulations Coordinator, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Charitable Choice Regulations Applicable to States Receiving Substance Abuse Prevention and Treatment Block Grants, Projects for Assistance in Transition from Homelessness, Formula Grants, and to Public and Private Receiving Discretionary Funding from SAMHSA'' (RIN0930–A11) received on September 30, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–4658. A communication from the Regulations Coordinator, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Charitable Choice Provisions Applicable to Programs Authorized Under the Community Services Block Grant Act'' (RIN0970–AC13) received on September 30, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–4659. A communication from the Regulations Coordinator, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Charitable Choice Provisions Applicable to the Temporary Assistance for Needy Families Program'' (RIN0970–AC12) received on September 30, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–4660. A communication from the Regulations Coordinator, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medicare Program; Hospice Wage Index for Fiscal Year 2004'' (RIN0938–AM67) received on September 30, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–4661. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, a report relative to activities and operations of the Public Integrity Section, Criminal Division , and reporting nationwide Federal law enforcement effort against public corruption; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. GRASSLEY, from the Committee on Finance, with an amendment in the nature of a substitute:

H.R. 4. A bill to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes (Rept. No. 108–162).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. REED (for himself and Mrs. MURRAY):

S. 1710. A bill to amend title XXVII of the Public Health Service Act and part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 to establish standards for the health quality improvement of children in managed care plans and other health plans; to the Committee on Health, Education, Labor, and Pensions.

By Mr. CORZINE:

S. 1711. A bill to increase the expertise and capacity of community-based organizations involved in economic development activities and key development programs; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. LIEBERMAN (for himself and Mr. LEVIN):

S. 1712. A bill to re-establish and reform the independent counsel statute; to the Committee on Governmental Affairs.

By Ms. SNOWE (for herself, Mr. PRYOR, and Mr. BOND):

S. 1713. A bill to amend title IV of the Small Business Investment Act of 1958, relating to a pilot program for credit enhancement guarantees on pools of non-SBA loans; to the Committee on Small Business and Entrepreneurship.

By Mr. CORZINE:

S. 1714. A bill to amend the National Housing Act to increase the maximum mortgage amount limit for FHA-insured mortgages for multifamily housing located in high-cost areas; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. CAMPBELL (for himself and Mr. INOUYE):

S. 1715. A bill to amend the Indian Self-Determination and Education Assistance Act to provide further self-governance by Indian tribes; to the Committee on Indian Affairs.

By Mr. CHAFEE (for himself, Mr. BOND, and Mr. JEFFORDS):

S. 1716. A bill to amend the Federal Water Pollution Control Act to authorize the use of funds made available for nonpoint source management programs for projects and activities relating to the development and implementation of phase II of the storm water program of the Environmental Protection Agency; to the Committee on Environment and Public Works.

By Mr. HATCH (for himself, Mr. BROWNBACK, Mr. SPECTER, and Mr. DODD):

S. 1717. A bill to amend the Public Health Service Act to establish a National Cord Blood Stem Cell Bank Network to prepare, store, and distribute human umbilical cord blood stems cells for the treatment of patients and to support peer-reviewed research using such cells; to the Committee on Health, Education, Labor, and Pensions.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CAMPBELL (for himself, Mr. INOUYE, Mr. BINGAMAN, Mr. JOHNSON, Mr. THOMAS, and Mr. MCCAIN):

S. Res. 239. A resolution designating November 7, 2003, as ''National Native American Veterans Day'' to honor the service of Native Americans in the United States Armed Forces and the contribution of Native Americans to the defense of the United States; to the Committee on the Judiciary.

By Mr. CAMPBELL (for himself, Mr. INOUYE, Mr. DORGAN, Mr. BINGAMAN, Mr. JOHNSON, Mr. DOMENICI, Mr. MCCAIN, Mr. THOMAS, and Mr. HATCH):

S. Res. 240. A resolution designating November 2003 as ''National American Indian Heritage Month''; to the Committee on the Judiciary.

By Mr. GRAHAM of South Carolina:

S. Res. 241. A resolution expressing the sense of the Senate regarding the Palestinian Authority; to the Committee on Foreign Relations.

By Ms. MURKOWSKI:

S. Res. 242. A resolution to express the sense of the Senate concerning the do-not-call registry; to the Committee on the Judiciary.

By Mr. DASCHLE:

S. Con. Res. 72. A concurrent resolution commemorating the 60th anniversary of the

establishment of the United States Cadet Nurse Corps and voicing the appreciation of Congress regarding the service of the members of the United States Cadet Nurse Corps during World War II; to the Committee on Health, Education, Labor, and Pensions.

ADDITIONAL COSPONSORS

S. 595

At the request of Mr. HATCH, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 595, a bill to amend the Internal Revenue Code of 1986 to repeal the required use of certain principal repayments on mortgage subsidy bond financings to redeem bonds, to modify the purchase price limitation under mortgage subsidy bond rules based on median family income, and for other purposes.

S. 1214

At the request of Ms. MIKULSKI, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1214, a bill to provide a partially refundable tax credit for caregiving related expenses.

S. 1231

At the request of Mr. SCHUMER, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 1231, a bill to eliminate the burdens and costs associated with electronic mail spam by prohibiting the transmission of all unsolicited commercial electronic mail to persons who place their electronic mail addresses on a national No-Spam Registry, and to prevent fraud and deception in commercial electronic mail by imposing requirements on the content of all commercial electronic mail messages.

S. 1510

At the request of Mr. LEAHY, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 1510, a bill to amend the Immigration and Nationality Act to provide a mechanism for United States citizens and lawful permanent residents to sponsor their permanent partners for residence in the United States, and for other purposes.

S. 1531

At the request of Mr. HATCH, the names of the Senator from Nebraska (Mr. HAGEL) and the Senator from Minnesota (Mr . DAYTON) were added as cosponsors of S. 1531, a bill to require the Secretary of the Treasury to mint coins in commemoration of Chief Justice John Marshall.

S. 1594

At the request of Mrs. FEINSTEIN, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 1594, a bill to require a report on reconstruction efforts in Iraq.

S. 1612

At the request of Ms. COLLINS, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 1612, a bill to establish a technology, equipment, and information transfer within the Department of Homeland Security.

S. 1630

At the request of Mr. HAGEL, his name was added as a cosponsor of S. 1630, a bill to facilitate nationwide availability of 2-1-1 telephone service for information and referral services, and for other purposes.

S. 1685

At the request of Mr. GRASSLEY, the name of the Senator from Arizona (Mr. KYL) was added as a cosponsor of S. 1685, a bill to extend and expand the basic pilot program for employment eligiblity verification, and for other purposes.

S. 1708

At the request of Mr. KENNEDY, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 1708, a bill to provide extended unemployment benefits to displaced workers, and to make other improvements in the unemployment insurance system.

S. RES. 231

At the request of Mr. FEINGOLD, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. Res. 231, a resolution commending the Government and people of Kenya.

AMENDMENT NO. 1798

At the request of Mrs. HUTCHISON, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of amendment No. 1798 intended to be proposed to S. 1689, an original bill making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes.

AMENDMENT NO. 1816

At the request of Mr. DASCHLE, the names of the Senator from Washington (Ms. CANTWELL) and the Senator from Minnesota (Mr. DAYTON) were added as cosponsors of amendment No. 1816 proposed to S. 1689, an original bill making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes.

AMENDMENT NO. 1816

At the request of Mrs. MURRAY, her name was added as a cosponsor of amendment No. 1816 proposed to S. 1689, supra.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CORZINE:

S. 1711. A bill to increase the expertise and capacity of community-based organizations involved in economic development activities and key development programs; to the Committee on Banking, Housing, and Urban Affairs.

Mr. CORZINE. Mr. President, I rise today to introduce the Community Economic Development Expertise Enhancement Act of 2003.

This regulation would provide funding for nonprofit, community-based economic development organizations and for the establishment of partnerships between these organizations. Most importantly, the legislation would authorize grants to promote the use of mentors to improve the operational capabilities of community-based organizations in the areas of project development, personnel management, legal services, and financial management. These and other eligible uses of the funding would increase the capacity of these organizations to expand community development activities throughout the country.

Over the past several decades, our Nation has seen the emergence of community-based organizations that have helped break the cycle of poverty for millions of families. Today, according to the National Congress of Community Economic Development, there are more than 3,600 of these organizations, many of which serve some of our Nation's most economically challenged communities. These include both urban and rural areas, as well as suburban regions.

Typically, community development corporations have annual budgets ranging from $200,000 to $500,000 and staffs averaging about six members. Their lack of personnel, expertise and financing often creates real constraints on their ability to make even greater contributions to their community.

This legislation would expand our investment in these organizations, and expand their capacity to build homes, create jobs, improve public safety, provide critical social services, increase access to capital, and turn around communities now filled with despair. The bill would serve a wide range of communities with different economic, geographic, and social characteristics.

I hope my colleagues will support the bill, and I ask unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1711

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Community Economic Development Expertise Enhancement Act of 2003''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) there are a multitude of community economic development programs administered by the Federal Government that assist many of the most economically distressed areas in the United States in—

(A) revitalizing physical and economic structures; and

(B) providing support to small- and medium-sized businesses to encourage and assist the businesses in generating long-term jobs and economic opportunity;

(2) there are many nonprofit, nongovernmental, community-based economic development organizations, including faith-based organizations, that have successfully operated community economic development programs that create jobs, build homes, and revitalize local markets;

(3) Federal community economic development programs in effect as of the date of enactment of this Act are intended to leverage private sector investment as part of an overall community development effort;

(4) Federal community economic development programs connect residents of distressed neighborhoods to jobs and opportunities of the regional marketplace, replacing economic distress with opportunity;

(5) Federal community economic development programs—

(A) provide financial assistance, including tax credits and loan guarantees;

(B) involve private investment institutions and universities; and

(C) provide technical expertise for small businesses;

(6) Federal community economic development programs in effect as of the date of enactment of this Act build on ongoing efforts to encourage economic growth in distressed communities by—

(A) helping to create new affordable housing opportunities;

(B) allowing communities to address important public safety, access to capital, infrastructure, and environmental concerns; and

(C) providing social services, including affordable health care, transportation, child care, and youth development;

(7) the continuing success of Federal community economic development programs will depend in great measure on the ability of community-based organizations and private sector institutions to form partnerships that connect residents of distressed neighborhoods to jobs and other opportunities;

(8) the Federal Government administers various programs that employ the services and capabilities of community-based organizations to deliver a wide range of services to residents of distressed communities;

(9) Federal community economic development programs help achieve lasting improvement and enhance domestic prosperity by the establishment of stable and diversified local economies, sustainable development, and improved local conditions;

(10) there is a need for greater cooperation between the Federal Government, States, and other entities to ensure that, consistent with national community economic development objectives, Federal programs are compatible with, and further the objectives of, State, regional, and local economic development plans and comprehensive economic development strategies;

(11) while economic development is an inherently local process, the Federal Government should work in closer partnership with community-based economic development organizations to ensure that—

(A) resources are fully utilized; and

(B) all people in the United States have an opportunity to participate in the economic growth of the United States; and

(12) extending technical assistance to community-based economic development organizations may be necessary or desirable—

(A) to alleviate economic distress;

(B) to encourage and support public-private partnerships for the formation and improvement of economic development strategies that promote the growth of the national economy;

(C) to stimulate modernization and technological advances in the generation and commercialization of goods and services; and

(D) to enhance the effectiveness of United States companies in the global economy.

(b) PURPOSES.—The purposes of this Act are—

(1) to provide a new source of Federal funding to enhance the capabilities of nonprofit, nongovernmental, community-based economic development organizations, or collaborations of those organizations, to leverage private sector investment as part of an overall community development strategy;

(2) to establish educational programs for nonprofit, nongovernmental, community-based organizations to expand the project development capabilities of those organizations;

(3) to increase the use of tax incentives to leverage private sector investment in community economic development projects;

(4) to promote and facilitate investments in community-based economic development projects from traditional and nontraditional capital sources;

(5) to encourage partnerships between community-based organizations that will expand and enhance the expertise of emerging nonprofit, nongovernmental organizations in using private sector investment as part of the comprehensive community development strategies of the organizations; and

(6) to ensure that viable community economic development projects are successfully pursued throughout the United States in communities having a wide range of economic, geographic, and social characteristics.

SEC. 3. DEFINITIONS.

In this Act:

(1) COMMUNITY-BASED ECONOMIC DEVELOPMENT ORGANIZATION.—

(A) IN GENERAL.—The term ''community-based economic development organization'' means a nonprofit, nongovernmental organization that—

(i) has the primary mission to serve, or provide investment capital for, low-income communities and low-income individuals; and

(ii) either—

(I) maintains accountability to residents of low-income communities through representation of those residents on any governing board of the organization or on any advisory board to the organization; or

(II) maintains accountability to low-income communities by having a governing board that primarily consists of leaders of community-based development organizations from the region or State of the organization.

(B) INCLUSION.—The term ''community-based economic development organization'' includes any faith-based organization that complies with the requirements under clauses (i) and (ii) of subparagraph (A).

(C) TREATMENT OF COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS.—The requirements of subparagraph (A) shall be deemed to be met by any community development financial institution (as defined in section 103 of the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4702)).

(2) COMMUNITY ECONOMIC DEVELOPMENT PROJECT.—The term ''community economic development project'' means a project that involves—

(A) investment in business enterprises, including investments in the form of loan origination, equity investment, and monetary assistance to home buyers or to business owners for business development projects; or

(B) the construction or rehabilitation of facilities, including commercial or industrial facilities, homes, apartment buildings, and community parks.

(3) LOW-INCOME COMMUNITY.—The term ''low-income community'' has the meaning given the term in section 45D of the Internal Revenue Code of 1986.

(4) LOW-INCOME INDIVIDUAL.—The term ''low-income individual'' means any individual who—

(A) lives in an area other than a metropolitan area and whose median family income does not exceed 80 percent of the statewide median family income; or

(B) lives in a metropolitan area and whose median family income does not exceed 80 percent of the greater of the statewide median family income or the metropolitan area median family income, as those terms are used in section 45D of the Internal Revenue Code of 1986.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of Housing and Urban Development.

SEC. 4. GRANTS TO INCREASE CAPACITY AND EXPERTISE OF NONPROFIT, NONGOVERNMENTAL COMMUNITY-BASED ORGANIZATIONS INVOLVED IN COMMUNITY ECONOMIC DEVELOPMENT ACTIVITIES.

(a) GRANT AUTHORITY.—The Secretary may provide grants under this section only—

(1) to eligible community-based economic development organizations; and

(2) for the purposes described in subsection (c).

(b) ELIGIBLE COMMUNITY-BASED ECONOMIC DEVELOPMENT ORGANIZATION.—

(1) DEFINITION.—In this section, the term ''eligible community-based economic development organization'' means a community-based economic development organization, or a collaboration of organizations (including city or State community economic development associations), that demonstrates management capacity by meeting, as determined by the Secretary, 2 or more of the requirements in paragraph (2).

(2) REQUIREMENTS.—The requirements referred to in paragraph (1), with respect to an eligible community-based economic development organization, are—

(A) completion of construction of 10 or more dwelling units of affordable housing;

(B) completion of construction of a commercial, industrial, retail, or community facility project;

(C) the past or present provision, in partnership with community-based economic development organizations, of training, education, capacity, technical assistance, or other mentoring services;

(D) the exhibition of willingness to form operational partnerships and execute contractual agreements with emerging community-based economic development organizations; and

(E) the possession of tangible assets the value of which is not less than the value of the grant requested under this section.

(c) USE OF FUNDS.—

(1) PURPOSES.—Amounts from a grant provided under this section may be used only—

(A) to pay salaries or administrative expenses of the grantee or an emerging community-based economic development organization that is undertaking a community economic development project;

(B) to provide technical assistance to an emerging community-based economic development organization that is undertaking a community economic development project; or

(C) to conduct training or research, and to carry out technical assistance, relating to community economic development through subgrants under paragraph (2), including subgrants for program evaluation and economic impact analyses.

(2) EXPENDITURE.—Amounts from a grant provided under this section may be—

(A) used directly by the eligible community-based economic development organization receiving the grant; or

(B) redistributed by the recipient to a nonprofit, nongovernmental entity in the form of—

(i) a grant;

(ii) a loan;

(iii) a loan guarantee;

(iv) a payment to reduce interest on a loan guarantee; or

(v) other appropriate assistance.

(d) SELECTION CRITERIA.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall promulgate rules, including guidelines and procedures, to provide for the selection of eligible community-based economic development organizations for grants under this section.

(2) CRITERIA.—The rules promulgated under paragraph (1) shall—

(A) be based on a determination of the relative effectiveness of the organizations in carrying out the purposes of this Act; and

(B) provide for consideration of—

(i) the number of eligible community-based economic development organizations eligible to receive assistance under programs other than this section;

(ii) the extent to which grant amounts provided under this section will enhance the capabilities of community-based economic development organizations in underserved States and localities;

(iii) the extent to which an eligible community-based economic development organization applying for a grant does not have access to other traditional local financial sources;

(iv) the extent to which an eligible community-based economic development organization represents nonprofit, nongovernmental organizations that serve low-income communities and individuals; and

(v) the extent to which an eligible community-based economic development organization will implement a plan to become financially sustainable.

(e) AMOUNT.—A grant provided under this section to a single grantee shall be in an amount that is not less than $250,000 and not greater than $1,000,000.

(f) PROHIBITION OF MATCHING FUNDS REQUIREMENT.—The Secretary may not require a grantee under this section to provide amounts from sources other than this section to fund the specific activities to be carried out with grant amounts provided under this section.

(g) ELIGIBILITY FOR COMMUNITY REINVESTMENT ACT CREDITS.—In determining whether an eligible community-based economic development organization is meeting the credit needs of the community of that organization for the purpose of section 804(a) of the Community Reinvestment Act of 1977 (12 U.S.C. 2903(a)), the appropriate Federal financial supervisory agency (as defined in section 803 of that Act (12 U.S.C. 2902)), in assessing and taking into account the record of any regulated financial institution, may consider as a factor investments in community economic development projects of eligible community-based economic development organizations.

(h) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to provide grants under this section $75,000,000 for each of fiscal years 2004 through 2006.

(2) SET-ASIDE FOR TECHNICAL ASSISTANCE AND TRAINING.—

(A) IN GENERAL.—Of the amount made available under this Act for each fiscal year, subject to subparagraph (C), $10,000,000 shall be available only for technical assistance and training activities, to be conducted by organizations described in subparagraph (B).

(B) ORGANIZATIONS.—The organizations referred to in subparagraph (A) are national community development organizations, State community development associations, and city community development associations, that have extensive nationwide partnerships and experience in working with community-based economic development organizations in accordance with section 4 of the HUD Demonstration Act of 1993 (42 U.S.C. 9816 note), as in effect on April 30, 2000.

(C) RESERVATION.—Of the amount reserved for use under this paragraph, not less than $4,000,000 shall be used for the support of development organizations in rural areas.

SEC. 5. ASSESSMENT OF COMMUNITY-BASED ECONOMIC DEVELOPMENT EXPERTISE.

(a) CAPABILITY STUDY.—

(1) IN GENERAL.—The Secretary shall conduct a study to assess the capability needs of community-based economic development organizations that—

(A) analyzes, evaluates, and recommends processes to improve the administrative and operational capabilities of the organizations to acceptable levels of success in support of the role of the Federal Government in community economic development; and

(B) assesses the extent to which Federal agencies may—

(i) incorporate the organizations into the formulation of the strategic plans of funding agencies; and

(ii) if the extent or quality of that type of involvement is satisfactory, support the role of the Federal Government in community economic development.

(2) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to Congress a report that describes the results of the study under this subsection.

(b) ANNUAL REPORTS TO CONGRESS.—Not later than the first March 1 occurring after the end of each fiscal year for which amounts are made available for grants under section 4, the Secretary shall submit to Congress a report that includes—

(1) an evaluation of the progress made during the fiscal year covered by the report, to enhance the administrative and operational capabilities of community-based economic development organizations in support of the role of the Federal Government in community economic development;

(2) an assessment of the extent to which Federal agencies have, during that fiscal year, involved community-based economic development organizations in—

(A) carrying out community economic development programs administered by the agencies; and

(B) delivering services under those programs that enhance the operational capabilities of the organizations; and

(3) a plan for making recommendations for actions or measures to further involve community-based economic development organizations in the strategic operations of Federal agencies in support of community economic development.

(c) FINAL EVALUATION.—

(1) IN GENERAL.—On termination of the grant program under section 4, the Secretary shall select an independent entity that has experience in national community economic development activities, nonprofit community-based developers, and impact evaluation and analysis to conduct an evaluation of the impact of the grant program.

(2) REPORT.—Not later than 180 days after the conclusion of the last fiscal year for which amounts are made available for grants under section 4, the entity conducting the evaluation under this subsection shall submit to the Secretary and Congress a final report regarding the evaluation.

SEC. 6. ADVISORY COUNCIL.

(a) ESTABLISHMENT.—The Secretary shall establish an advisory council to be known as the ''Secretary's Advisory Council on Community Economic Development'' (referred to in this section as the ''Advisory Council'').

(b) DUTIES.—The Advisory Council shall make recommendations to the Secretary, for use in carrying out this Act, including recommendations on—

(1) developing plans under section 5(b)(3); and

(2) reviewing and making recommendations on plans that have been developed.

(c) MEMBERSHIP.—

(1) IN GENERAL.—The Advisory Council shall consist of not less than 19 members, to be appointed by the Secretary, as described in paragraphs (2) and (3).

(2) NONVOTING MEMBERS.—The nonvoting members of the Advisory Council shall be—

(A) the Secretary of Housing and Urban Development;

(B) the Secretary of Health and Human Services;

(C) the Assistant Secretary for Economic Development of the Department of Commerce;

(D) the Administrator of the Community Development Financial Institutions Fund; and

(E) the Under Secretary of Agriculture for Rural Development.

(3) VOTING MEMBERS.—

(A) IN GENERAL.—The Advisory Council shall have not less than 14 voting members, to include—

(i) at least 2 individuals who conduct research on community economic development activities;

(ii) at least 2 individuals who are experts in community economic development financing;

(iii) at least 3 individuals who are publicly elected officials; and

(iv) at least 7 individuals who are representatives of community-based economic development organizations that carry out community economic development activities.

(B) LIMITATION.—No voting member of the Advisory Council may be an officer or employee of the Federal Government.

(d) TRAVEL EXPENSES.—Members of the Advisory Council shall not receive any compensation for service on the Advisory Council, other than travel expenses (including per diem in lieu of subsistence), in accordance with sections 5702 and 5703 of title 5, United States Code.

SEC. 7. COORDINATION WITH THE ANNUAL BUDGET REQUEST OF THE PRESIDENT.

The President of the United States shall include with each annual budget of the Federal Government required to be submitted under section 1105(a) of title 31, United States Code, a report regarding Federal financial support for community economic development that includes—

(1) a detailed summary of the total level of funding committed to community-based economic development organizations by all Federal agencies;

(2) a statement of—

(A) projected funding levels for the grant program under section 4 for the upcoming fiscal year and each fiscal year thereafter until fiscal year 2010; and

(B) projected funding levels for financial assistance for economic development activities for each Federal agency that provides that assistance;

(3) an identification and analysis of the method (including grant agreements, procurement contracts, and cooperative agreements (as those terms are used in chapter 63 of title 31, United States Code)) by which financial assistance is provided for each economic development activity; and

(4) recommendations for specific activities and measures—

(A) to enhance community-based economic development capacity building in States having less concentrated economic and infrastructure resources; and

(B) to strengthen nationwide community-based economic development.

By Mr. LIEBERMAN (for himself and Mr. LEVIN):

S. 1712. A bill to re-establish and reform the independent counsel statute; to the Committee on Governmental Affairs.

Mr. LIEBERMAN. Mr. President, I am very pleased to be joining today with Senator LEVIN in introducing the Independent Counsel Reform Act of 2003. With this bill, we hope to convince our colleagues that an improved independent counsel statute can serve an essential purpose. We want to convince our colleagues that our legislation will preserve the ideals that motivated the enactment of this statute in the years after Watergate, that no person is above the law, and that our highest government officials must be subject to our laws in the same way as any other person. If they are guilty, they must be held accountable. If they are not, they must be cleared. In these cases the American people are more likely to trust the findings of an independent counsel's investigation and conclusions. Officials who are wrongly accused will receive vindication that is far more credible to the public than when it comes from the Department of Justice. As a result, the public's confidence in its government is enhanced by the independent counsel statute.

In 1999, as the independent counsel law was expiring, I joined with Senators LEVIN, SPECTER, and COLLINS in introducing the Independent Counsel Reform Act of 1999. That year, we drafted new provisions to curb the excesses we had seen in some of the investigations conducted under the prior incarnation of the law. The revisions ensure that there will be fewer Independent Counsel appointed, and that their actions will in many respects be constrained by the same sorts of guidelines and practical restraints that govern regular federal prosecutors. The bill we are introducing today retains these suggested reforms. In fact, it is virtually identical to the Independent Counsel Reform Act of 1999, with a single exception I will describe in a moment.

We made those substantial changes after the Committee on Governmental Affairs had held five hearings on the Independent Counsel statute. During the hearings we heard from numerous witnesses who had served as Independent Counsel, and as Attorney General, from former prosecutors and from defense attorneys. Many witnesses supported the statute, even defense attorneys who had represented targets in Independent Counsel investigations. Both witnesses who opposed the statute outright, and those who advocated keeping it in some form, suggested a number of improvements to the statute. We carefully considered those recommendations before we sat down to draft a bill that retained the essential features of the old law while reducing its scope, limiting the powers of the Independent Counsel, and bringing greater transparency into the process.

For example, the threshold for seeking the appointment of an Independent Counsel will be raised, so that a greater amount of evidence to back up allegations of criminal conduct will be required. The attorney General will also be entitled for the first time to issue subpoenas for evidence and convene grand juries during the preliminary investigation, and would be given more time to conduct preliminary investigations. This change responds to concerns that, in the past, the Attorney General's hands have been tied during the preliminary investigation stage. With our bill, the Department of Justice will be able to conduct a more substantial preliminary investigation.

In another change that will reduce the number of Independent Counsel appointed, officials covered by the statute will be limited to the President, the Vice President, the President's Chief of Staff, and Cabinet members. This is a major reduction compared to the number of officials covered by the Independent Counsel statute when it expired. The Attorney General will retain the discretionary authority to appoint an Independent Counsel to investigate non-covered individuals when the Attorney General determines that investigation or prosecution by the Department of Justice would result in a personal, financial or political conflict of interest. This discretionary authority was part of the Independent Counsel law from 1983 to 1999; although the provision was not included in the bill we introduced that year, it has been included in this bill because of the promulgation, after our bill was introduced, of new regulations by the Department of Justice.

In many administrations, high level political advisers can have enormous influence, much more even than some Cabinet members. When we first introduced the Independent Counsel Reform Act of 1999, I hoped that criminal allegations against officials not covered by the statute could be handled either by the Department of Justice, or, in cases involving high-level officials or other conflicts of interest, through the appointment by the Attorney General of a Special Counsel. After our bill was introduced, however, then Attorney General Reno issued revised regulations for the appointment of Special Counsel, which provide that the Attorney General may block any investigative or prosecutorial action being pursued by the Special Counsel. The regulations also allow the Attorney General to shut down the investigation entirely, or starve it of funds. These revisions, and others, constituted a major reduction in a Special Counsel's autonomy. As Robert Fiske had testified during our committee hearings in 1999, he accepted his 1994 appointment to be the Whitewater Special Counsel only after satisfying himself that the regulations then in effect granted him the same powers as would have been available to an Independent Counsel. Now, with the variety of control mechanisms in place under the Department's 1999 regulations, it is far too easy for an Attorney General to stifle an investigation in ways less dramatic and less public than actually removing the Special Counsel.

Under the legislation we are introducing today, each Independent Counsel will have to devote his full time to the position for the duration of his tenure. This will prevent the appearance of conflicts that may arise when an Independent Counsel continues with his private legal practice, and it will expedite investigations as well. The Independent Counsel will also be expected to conform his conduct to the written guidelines and established policies of the Department of Justice. The prior version of that requirement contained a loophole, which has been eliminated.

There have been many complaints about runaway prosecutors, who continued their investigations longer than was necessary or appropriate. Our bill will impose a time limit of two years on investigations by Independent Counsel. The Special Division of the Court of Appeals will be able to grant extensions of time, however, for good cause and to compensate for dilatory tactics by opposing counsel. Imposing a time limit with flexibility allows Independent Counsel the time they genuinely need to complete their investigations, and deters defense counsel from using the time limit strategically to escape justice. But the time limit will also encourage future Independent Counsel to bring their investigations to an expeditious conclusion, and not chase down every imaginable lead.

Our bill makes another important change that will prevent expansion of investigations into unrelated areas. Until now the statute has allowed the Attorney General to request an expansion of an Independent Counsel's prosecutorial jurisdiction into unrelated areas. This happened several times with Judge Starr's investigation, and I believe those expansions contributed to a perception that the prosecutor was pursuing the person and not the crime. An Independent Counsel must not exist to pursue every possible lead against his target until he finds some taint of criminality. His function, our bill makes clear, is to investigate that subject matter given him in his original grant of prosecutorial jurisdiction.

We are bringing greater budgetary transparency to the process by directing the Independent Counsel to produce an estimated budget for each year, and by allowing the General Accounting Office to comment on that budget. This greater transparency will provide more incentive for Counsel to budget responsibly.

Another correction we are making is to eliminate entirely the requirement that an Independent Counsel refer evidence of impeachable offenses to the House of Representatives. The impeachment power is one of Congress's essential Constitutional functions, and

no part of that role should be delegated by statute to a prosecutor.

Our bill was unsuccessful in the 106th Congress. Perhaps one of the reasons was that we were still too close to one or two controversial investigations that turned some against the statute; perhaps the wounds were still too raw. Now with a fresh perspective gained through the passage of time, Congress should reconsider what it has given up by allowing the Independent Counsel law to lapse for the past four years. Hopefully, occasions will be few and far between when serious and credible criminal allegations emerge against high-level officials. When this happens, however, the public will question how we can be certain that the incident is being appropriately investigated. Indeed, in the absence of an Independent Counsel law, some may even question whether allegations are as likely to surface in the first place. If people with knowledge of criminal wrongdoing suspect that their information may be covered up rather than acted upon, they would be less likely to take the risk of coming forward.

The controversy that has enveloped the White House in the past week illustrates the need for an Independent Counsel law. According to news reports, two high-level Administration figures, which some reports have placed in the White House, willfully disclosed the name of a covert CIA operative. If true, this disclosure would be a serious criminal law violation, one that may well have endangered not just the covert operative, but the people abroad who worked with her in service to the United States. The disclosures were reportedly made to punish the agent's husband, Ambassador Joseph Wilson, for questioning the accuracy of comments made by the President about Iraq's nuclear weapons program. The Department of Justice recently initiated an investigation, but according to a recent poll the public overwhelmingly prefers that the investigation not be handled by the Department. Although we do not yet know which individuals may be implicated as a result of a thorough investigation, many Americans question whether Attorney General Ashcroft can preside impartially over a probe that could prove very damaging to his close associates in the White House, and to the President. An Independent Counsel statute is absolutely essential so that we have an institutionalized means for addressing allegations such as these. We should not, as we are now, forced into an ad hoc and situationally driven discussion of whether the Department of Justice can investigate a particular case.

I have always believed that the Independent Counsel statute embodies certain principles fundamental to our democracy. The alternative to an Independent Counsel statute is a system in which the Attorney General must decide how to handle substantive allegations against colleagues in the Cabinet, or against the President. Often the President and the Attorney General are long-time friends and political allies. The Attorney General will not be trusted by some to ensure that an unbiased investigation will be conducted. In other cases, many will question the thoroughness of an investigation directed from inside the Department. In a time of great public cynicism about government, the Independent Counsel statute guarantees that even the President and his highest officials will have to answer for their criminal malfeasance. In that sense, this statute upholds the rule of law and will help stem the distrust toward government. The Independent Counsel statute embodies the bedrock American principle that no person is above the law.

I ask unanimous consent that the text of the Independent Counsel Reform Act of 2003 be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1712

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Independent Counsel Reform Act of 2003''.

SEC. 2. INDEPENDENT COUNSEL STATUTE.

Chapter 40 of title 28, United States Code, is amended to read as follows:

''CHAPTER 40—INDEPENDENT COUNSEL

''§ 591. Applicability of provisions of this chapter

''(a) PRELIMINARY INVESTIGATION WITH RESPECT TO CERTAIN COVERED PERSONS.—The Attorney General shall conduct a preliminary investigation in accordance with section 592 whenever the Attorney General receives information sufficient to constitute grounds to investigate whether any person described in subsection (b) may have violated any Federal criminal law other than a violation classified as a Class B or C misdemeanor or an infraction.

''(b) PERSONS TO WHOM SUBSECTION (a) APPLIES.—The persons referred to in subsection (a) are—

''(1) the President and Vice President;

''(2) any individual serving in a position listed in section 5312 of title 5; and

''(3) the Chief of Staff to the President.

''(c) PRELIMINARY INVESTIGATION WITH RESPECT TO OTHER PERSONS.—When the Attorney General determines that an investigation or prosecution of a person by the Department of Justice may result in a personal, financial, or political conflict of interest, the Attorney General may conduct a preliminary investigation of such person in accordance with section 592 if the Attorney General receives information sufficient to constitute grounds to investigate whether that person may have violated Federal criminal law other than a violation classified as a Class B or C misdemeanor or an infraction.

''(d) EXAMINATION OF INFORMATION TO DETERMINE NEED FOR PRELIMINARY INVESTIGATION.—

''(1) FACTORS TO BE CONSIDERED.—In determining under subsection (a) or section 592(c)(2) whether grounds to investigate exist, the Attorney General shall consider only—

''(A) the specificity of the information received; and

''(B) the credibility of the source of the information.

''(2) TIME PERIOD FOR MAKING DETERMINATION.—The Attorney General shall determine whether grounds to investigate exist not later than 30 days after the information is first received. If within that 30-day period the Attorney General determines that the information is not specific or is not from a credible source, then the Attorney General shall close the matter. If within that 30-day period the Attorney General determines that the information is specific and from a credible source, the Attorney General shall, upon making that determination, commence a preliminary investigation with respect to that information. If the Attorney General is unable to determine, within that 30-day period, whether the information is specific and from a credible source, the Attorney General shall, at the end of that 30-day period, commence a preliminary investigation with respect to that information.

''(e) RECUSAL OF ATTORNEY GENERAL.—

''(1) WHEN RECUSAL IS REQUIRED.—

''(A) INVOLVING THE ATTORNEY GENERAL.—If information received under this chapter involves the Attorney General, the next most senior official in the Department of Justice who is not also recused shall perform the duties assigned under this chapter to the Attorney General.

''(B) PERSONAL OR FINANCIAL RELATIONSHIP.—If information received under this chapter involves a person with whom the Attorney General has a personal or financial relationship, the Attorney General shall recuse himself or herself by designating the next most senior official in the Department of Justice who is not also recused to perform the duties assigned under this chapter to the Attorney General.

''(2) REQUIREMENTS FOR RECUSAL DETERMINATION.—Before personally making any other determination under this chapter with respect to information received under this chapter, the Attorney General shall determine under paragraph (1)(B) whether recusal is necessary. The Attorney General shall set forth this determination in writing, identify the facts considered by the Attorney General, and set forth the reasons for the recusal. The Attorney General shall file this determination with any notification or application submitted to the division of the court under this chapter with respect to that information.

''§ 592. Preliminary investigation and application for appointment of an independent counsel

''(a) CONDUCT OF PRELIMINARY INVESTIGATION.—

''(1) IN GENERAL.—A preliminary investigation conducted under this chapter shall be of those matters as the Attorney General considers appropriate in order to make a determination, under subsection (b) or (c), with respect to each potential violation, or allegation of a violation, of criminal law. The Attorney General shall make that determination not later than 120 days after the

preliminary investigation is commenced, except that, in the case of a preliminary investigation commenced after a congressional request under subsection (g), the Attorney General shall make that determination not later than 120 days after the request is received. The Attorney General shall promptly notify the division of the court specified in section 593(a) of the commencement of that preliminary investigation and the date of commencement.

''(2) LIMITED AUTHORITY OF ATTORNEY GENERAL.—

''(A) IN GENERAL.—In conducting preliminary investigations under this chapter, the Attorney General shall have no authority to plea bargain or grant immunity. The Attorney General shall have the authority to convene grand juries and issue subpoenas.

''(B) NOT TO BE BASIS OF DETERMINATIONS.—The Attorney General shall not base a determination under this chapter—

''(i) that information with respect to a violation of criminal law by a person is not specific and from a credible source upon a determination that that person lacked the state of mind required for the violation of criminal law; or

''(ii) that there are no substantial grounds to believe that further investigation is warranted, upon a determination that that person lacked the state of mind required for the criminal violation involved, unless there is a preponderance of the evidence that the person lacked that state of mind.

''(3) EXTENSION OF TIME FOR PRELIMINARY INVESTIGATION.—The Attorney General may apply to the division of the court for a single extension, for a period of not more than 90 days, of the 120-day period referred to in paragraph (1). The division of the court may, upon a showing of good cause, grant that extension.

''(b) DETERMINATION THAT FURTHER INVESTIGATION NOT WARRANTED.—

''(1) NOTIFICATION OF DIVISION OF THE COURT.—If the Attorney General, upon completion of a preliminary investigation under this chapter, determines that there are no substantial grounds to believe that further investigation is warranted, the Attorney General shall promptly so notify the division of the court, and the division of the court shall have no power to appoint an independent counsel with respect to the matters involved.

''(2) FORM OF NOTIFICATION.—Notification under paragraph (1) shall contain a summary of the information received and a summary of the results of the preliminary investigation.

''(c) DETERMINATION THAT FURTHER INVESTIGATION IS WARRANTED.—

''(1) APPLICATION FOR APPOINTMENT OF INDEPENDENT COUNSEL.—The Attorney General shall apply to the division of the court for the appointment of an independent counsel if—

''(A) the Attorney General, upon completion of a preliminary investigation under this chapter, determines that there are substantial grounds to believe that further investigation is warranted; or

''(B) the 120-day period referred to in subsection (a)(1), and any extension granted under subsection (a)(3), have elapsed and the Attorney General has not filed a notification with the division of the court under subsection (b)(1).

In determining under this chapter whether there are substantial grounds to believe that further investigation is warranted, the Attorney General shall comply with the written or other established policies of the Department of Justice with respect to the conduct of criminal investigations.

''(2) RECEIPT OF ADDITIONAL INFORMATION.—If, after submitting a notification under subsection (b)(1), the Attorney General receives additional information sufficient to constitute grounds to investigate the matters to which that notification related, the Attorney General shall—

''(A) conduct such additional preliminary investigation as the Attorney General considers appropriate for a period of not more than 120 days after the date on which that additional information is received; and

''(B) otherwise comply with the provisions of this section with respect to that additional preliminary investigation to the same extent as any other preliminary investigation under this section.

''(d) CONTENTS OF APPLICATION.—Any application for the appointment of an independent counsel under this chapter shall contain sufficient information to assist the division of the court in selecting an independent counsel and in defining that independent counsel's prosecutorial jurisdiction so that the independent counsel has adequate authority to fully investigate and prosecute the subject matter and all matters directly related to that subject matter.

''(e) DISCLOSURE OF INFORMATION.—Except as otherwise provided in this chapter or as is deemed necessary for law enforcement purposes, no officer or employee of the Department of Justice or an office of independent counsel may, without leave of the division of the court, disclose to any individual outside the Department of Justice or that office any notification, application, or any other document, materials, or memorandum supplied to the division of the court under this chapter. Nothing in this chapter shall be construed as authorizing the withholding of information from the Congress.

''(f) LIMITATION ON JUDICIAL REVIEW.—The Attorney General's determination under this chapter to apply to the division of the court for the appointment of an independent counsel shall not be reviewable in any court.

''(g) CONGRESSIONAL REQUEST.—

''(1) BY JUDICIARY COMMITTEE OR MEMBERS THEREOF.—The Committee on the Judiciary of either House of the Congress, or a majority of majority party members or a majority of all nonmajority party members of either such committee, may request in writing that the Attorney General apply for the appointment of an independent counsel.

''(2) REPORT BY ATTORNEY GENERAL PURSUANT TO REQUEST.—Not later than 30 days after the receipt of a request under paragraph (1), the Attorney General shall submit, to the committee making the request, or to the committee on which the persons making the request serve, a report on whether the Attorney General has begun or will begin a preliminary investigation under this chapter of the matters with respect to which the request is made, in accordance with section 591(a). The report shall set forth the reasons for the Attorney General's decision regarding the preliminary investigation as it relates to each of the matters with respect to which the congressional request is made. If there is such a preliminary investigation, the report shall include the date on which the preliminary investigation began or will begin.

''(3) SUBMISSION OF INFORMATION IN RESPONSE TO CONGRESSIONAL REQUEST.—At the same time as any notification, application, or any other document, material, or memorandum is supplied to the division of the court pursuant to this section with respect to a preliminary investigation of any matter with respect to which a request is made under paragraph (1), that notification, application, or other document, material, or memorandum shall be supplied to the committee making the request, or to the committee on which the persons making the request serve. If no application for the appointment of an independent counsel is made to the division of the court under this section pursuant to such a preliminary investigation, the Attorney General shall submit a report to that committee stating the reasons why the application was not made, addressing each matter with respect to which the congressional request was made.

''(4) DISCLOSURE OF INFORMATION.—Any report, notification, application, or other document, material, or memorandum supplied to a committee under this subsection shall not be revealed to any third party, except that the committee may, either on its own initiative or upon the request of the Attorney General, make public such portion or portions of that report, notification, application, document, material, or memorandum as will not in the committee's judgment prejudice the rights of any individual.

''§ 593. Duties of the division of the court

''(a) REFERENCE TO DIVISION OF THE COURT.—The division of the court to which this chapter refers is the division established under section 49 of this title.

''(b) APPOINTMENT AND JURISDICTION OF INDEPENDENT COUNSEL.—

''(1) AUTHORITY.—Upon receipt of an application under section 592(c), the division of the court shall appoint an appropriate independent counsel and define the independent counsel's prosecutorial jurisdiction. The appointment shall be made from a list of candidates comprised of 5 individuals recommended by the chief judge of each Federal circuit and forwarded by January 15 of each year to the division of the court.

''(2) QUALIFICATIONS OF INDEPENDENT COUNSEL.—The division of the court shall appoint as independent counsel an individual who—

''(A) has appropriate experience, including, to the extent practicable, prosecutorial experience and who has no actual or apparent personal, financial, or political conflict of interest;

''(B) will conduct the investigation on a full-time basis and in a prompt, responsible, and cost-effective manner; and

''(C) does not hold any office of profit or trust under the United States.

''(3) SCOPE OF PROSECUTORIAL JURISDICTION.—

''(A) IN GENERAL.—In defining the independent counsel's prosecutorial jurisdiction under this chapter, the division of the court shall assure that the independent counsel has adequate authority to fully investigate and prosecute—

''(i) the subject matter with respect to which the Attorney General has requested the appointment of the independent counsel; and

''(ii) all matters that are directly related to the independent counsel's prosecutorial jurisdiction and the proper investigation and prosecution of the subject matter of such jurisdiction.

''(B) DIRECTLY RELATED.—In this paragraph, the term 'directly related matters' includes Federal crimes, other than those classified as Class B or C misdemeanors or infractions, that impede the investigation and prosecution, such as perjury, obstruction of justice, destruction of evidence, and intimidation of witnesses.

''(4) DISCLOSURE OF IDENTITY AND PROSECUTORIAL JURISDICTION.—An independent counsel's identity and prosecutorial jurisdiction may not be made public except upon the request of the Attorney General or upon a determination of the division of the court that disclosure of the identity and prosecutorial jurisdiction of that independent counsel would be in the best interests of justice. In any event, the identity and prosecutorial jurisdiction of the independent counsel shall be

made public when any indictment is returned, or any criminal information is filed, pursuant to the independent counsel's investigation.

''(c) RETURN FOR FURTHER EXPLANATION.—Upon receipt of a notification under section 592 from the Attorney General that there are no substantial grounds to believe that further investigation is warranted with respect to information received under this chapter, the division of the court shall have no authority to overrule this determination but may return the matter to the Attorney General for further explanation of the reasons for that determination.

''(d) VACANCIES.—If a vacancy in office arises by reason of the resignation, death, or removal of an independent counsel, the division of the court shall appoint an independent counsel to complete the work of the independent counsel whose resignation, death, or removal caused the vacancy, except that in the case of a vacancy arising by reason of the removal of an independent counsel, the division of the court may appoint an acting independent counsel to serve until any judicial review of the removal is completed.

''(e) ATTORNEYS' FEES.—

''(1) AWARD OF FEES.—Upon the request of an individual who is the subject of an investigation conducted by an independent counsel pursuant to this chapter, the division of the court may, if no indictment is brought against that individual pursuant to the investigation, award reimbursement for those reasonable attorneys' fees incurred by the individual during the investigation which would not have been incurred but for the requirements of this chapter. The division of the court shall notify the independent counsel who conducted the investigation and the Attorney General of any request for attorneys' fees under this subsection.

''(2) EVALUATION OF FEES.—The division of the court shall direct the independent counsel and the Attorney General to file a written evaluation of any request for attorneys' fees under this subsection, addressing—

''(A) the sufficiency of the documentation;

''(B) the need or justification for the underlying item;

''(C) whether the underlying item would have been incurred but for the requirements of this chapter; and

''(D) the reasonableness of the amount of money requested.

''(f) DISCLOSURE OF INFORMATION.—The division of the court may, subject to section 594(h)(2), allow the disclosure of any notification, application, or any other document, material, or memorandum supplied to the division of the court under this chapter.

''(g) AMICUS CURIAE BRIEFS.—When presented with significant legal issues, the division of the court may disclose sufficient information about the issues to permit the filing of timely amicus curiae briefs.

''§ 594. Authority and duties of an independent counsel

''(a) AUTHORITIES.—Notwithstanding any other provision of law, an independent counsel appointed under this chapter shall have, with respect to all matters in that independent counsel's prosecutorial jurisdiction established under this chapter, full power and independent authority to exercise all investigative and prosecutorial functions and powers of the Department of Justice, the Attorney General, and any other officer or employee of the Department of Justice, except that the Attorney General shall exercise direction or control as to those matters that specifically require the Attorney General's personal action under section 2516 of title 18. Such investigative and prosecutorial functions and powers shall include—

''(1) conducting proceedings before grand juries and other investigations;

''(2) participating in court proceedings and engaging in any litigation, including civil and criminal matters, that the independent counsel considers necessary;

''(3) appealing any decision of a court in any case or proceeding in which the independent counsel participates in an official capacity;

''(4) reviewing all documentary evidence available from any source;

''(5) determining whether to contest the assertion of any testimonial privilege;

''(6) receiving appropriate national security clearances and, if necessary, contesting in court (including, where appropriate, participating in in camera proceedings) any claim of privilege or attempt to withhold evidence on grounds of national security;

''(7) making applications to any Federal court for a grant of immunity to any witness, consistent with applicable statutory requirements, or for warrants, subpoenas, or other court orders, and, for purposes of sections 6003, 6004, and 6005 of title 18, exercising the authority vested in a United States attorney or the Attorney General;

''(8) inspecting, obtaining, or using the original or a copy of any tax return, in accordance with the applicable statutes and regulations, and, for purposes of section 6103 of the Internal Revenue Code of 1986 and the regulations issued thereunder, exercising the powers vested in a United States attorney or the Attorney General;

''(9) initiating and conducting prosecutions in any court of competent jurisdiction, framing and signing indictments, filing informations, and handling all aspects of any case, in the name of the United States; and

''(10) consulting with the United States attorney for the district in which any violation of law with respect to which the independent counsel is appointed was alleged to have occurred.

''(b) COMPENSATION.—

''(1) IN GENERAL.—An independent counsel appointed under this chapter shall receive compensation at the annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5.

''(2) TRAVEL EXPENSES.—Except as provided in paragraph (3), an independent counsel and persons appointed under subsection (c) shall be entitled to the payment of travel expenses as provided by subchapter I of chapter 57 of title 5, United States Code, including travel, per diem, and subsistence expenses in accordance with section 5703 of title 5.

''(3) TRAVEL TO PRIMARY OFFICE.—

''(A) IN GENERAL.—After 1 year of service under this chapter, an independent counsel and persons appointed under subsection (c) shall not be entitled to the payment of travel, per diem, or subsistence expenses under subchapter I of chapter 57 of title 5, United States Code, for the purpose of commuting to or from the city in which the primary office of the independent counsel or person is located. The 1-year period may be extended for successive 6-month periods if the independent counsel and the division of the court certify that the payment is in the public interest to carry out the purposes of this chapter.

''(B) RELEVANT FACTORS.—In making any certification under this paragraph with respect to travel and subsistence expenses of an independent counsel or person appointed under subsection (c), that employee shall consider, among other relevant factors—

''(i) the cost to the Government of reimbursing those travel and subsistence expenses;

''(ii) the period of time for which the independent counsel anticipates that the activities of the independent counsel or person, as the case may be, will continue;

''(iii) the personal and financial burdens on the independent counsel or person, as the case may be, of relocating so that the travel and subsistence expenses would not be incurred; and

''(iv) the burdens associated with appointing a new independent counsel, or appointing another person under subsection (c), to replace the individual involved who is unable or unwilling to so relocate.

''(c) ADDITIONAL PERSONNEL.—For the purposes of carrying out the duties of an office of independent counsel, an independent counsel may appoint, fix the compensation, and assign the duties of such employees as such independent counsel considers necessary (including investigators, attorneys, and part-time consultants). The positions of all such employees are exempted from the competitive service. Such employees shall be compensated at levels not to exceed those payable for comparable positions in the Office of United States Attorney for the District of Columbia under sections 548 and 550, but in no event shall any such employee be compensated at a rate greater than the rate of basic pay payable for level ES–4 of the Senior Executive Service Schedule under section 5382 of title 5, as adjusted for the District of Columbia under section 5304 of that title regardless of the locality in which an employee is employed.

''(d) ASSISTANCE OF DEPARTMENT OF JUSTICE.—

''(1) IN CARRYING OUT FUNCTIONS.—An independent counsel may request assistance from the Department of Justice in carrying out the functions of the independent counsel, and the Department of Justice shall provide that assistance, which may include access to any records, files, or other materials relevant to matters within that independent counsel's prosecutorial jurisdiction, and the use of the resources and personnel necessary to perform that independent counsel's duties. At the request of an independent counsel, prosecutors, administrative personnel, and other employees of the Department of Justice may be detailed to the staff of the independent counsel to the extent the number of staff so detailed is reasonably related to the number of staff ordinarily assigned by the Department to conduct an investigation of similar size and complexity.

''(2) PAYMENT OF AND REPORTS ON EXPENDITURES OF INDEPENDENT COUNSEL.—The Department of Justice shall pay all costs relating to the establishment and operation of any office of independent counsel. The Attorney General shall submit to the Congress, not later than 30 days after the end of each fiscal year, a report on amounts paid during that fiscal year for expenses of investigations and prosecutions by independent counsel. Each such report shall include a statement of all payments made for activities of independent counsel but may not reveal the identity or prosecutorial jurisdiction of any independent counsel which has not been disclosed under section 593(b)(4).

''(e) REFERRAL OF DIRECTLY RELATED MATTERS TO AN INDEPENDENT COUNSEL.—An independent counsel may ask the Attorney General or the division of the court to refer to the independent counsel only such matters that are directly related to the independent counsel's prosecutorial jurisdiction, and the Attorney General or the division of the court, as the case may be, may refer such matters. If the Attorney General refers a matter to an independent counsel on the Attorney General's own initiative, the independent counsel may accept that referral only if the matter directly relates to the independent counsel's prosecutorial jurisdiction. If the Attorney General refers any matter to the independent counsel pursuant to

the independent counsel's request, or if the independent counsel accepts a referral made by the Attorney General on the Attorney General's own initiative, the independent counsel shall so notify the division of the court.

''(f) COMPLIANCE WITH POLICIES OF THE DEPARTMENT OF JUSTICE.—

''(1) IN GENERAL.—An independent counsel shall comply with the written or other established policies of the Department of Justice respecting enforcement of the criminal laws except when that policy requires the specific approval of the Attorney General or another Department of Justice official. If a policy requires the approval of the Attorney General or other Department of Justice official, an independent counsel is encouraged to consult with the Attorney General or other official. To identify and understand these policies and policies under subsection (l)(1)(B), the independent counsel shall consult with the Department of Justice.

''(2) NATIONAL SECURITY.—An independent counsel shall comply with guidelines and procedures used by the Department in the handling and use of classified material.

''(3) RELIEF FROM A VIOLATION OF POLICIES.—

''(A) IN GENERAL.—A person who is a target, witness, or defendant in, or otherwise directly affected by, an investigation by an independent counsel and who has reason to believe that the independent counsel is violating a written policy of the Department of Justice material to the independent counsel's investigation, may ask the Attorney General to determine whether the independent counsel has violated that policy. The Attorney General shall respond in writing within 30 days.

''(B) RELIEF.—If the Attorney General determines that the independent counsel has violated a written policy of the Department of Justice material to the investigation by the independent counsel pursuant to subparagraph (A), the Attorney General may ask the division of the court to order the independent counsel to comply with that policy, and the division of the court may order appropriate relief.

''(g) DISMISSAL OF MATTERS.—The independent counsel shall have full authority to dismiss matters within the independent counsel's prosecutorial jurisdiction without conducting an investigation or at any subsequent time before prosecution, if to do so would be consistent with the written or other established policies of the Department of Justice with respect to the enforcement of criminal laws.

''(h) REPORTS BY INDEPENDENT COUNSEL.—

''(1) REQUIRED REPORTS.—An independent counsel shall—

''(A) file with the division of the court, with respect to the 6-month period beginning on the date of his or her appointment, and with respect to each 6-month period thereafter until the office of that independent counsel terminates, a report which identifies and explains major expenses, and summarizes all other expenses, incurred by that office during the 6-month period with respect to which the report is filed, and estimates future expenses of that office; and

''(B) before the termination of the independent counsel's office under section 596(b), file a final report with the division of the court, setting forth only the following:

''(i) the jurisdiction of the independent counsel's investigation;

''(ii) a list of indictments brought by the independent counsel and the disposition of each indictment, including any verdicts, pleas, convictions, pardons, and sentences; and

''(iii) a summary of the expenses of the independent counsel's office.

''(2) DISCLOSURE OF INFORMATION IN REPORTS.—The division of the court may release to the Congress, the public, or any appropriate person, those portions of a report made under this subsection as the division of the court considers appropriate. The division of the court shall make those orders as are appropriate to protect the rights of any individual named in that report and to prevent undue interference with any pending prosecution. The division of the court may make any portion of a final report filed under paragraph (1)(B) available to any individual named in that report for the purposes of receiving within a time limit set by the division of the court any comments or factual information that the individual may submit. Such comments and factual information, in whole or in part, may, in the discretion of the division of the court, be included as an appendix to the final report.

''(3) PUBLICATION OF REPORTS.—At the request of an independent counsel, the Public Printer shall cause to be printed any report previously released to the public under paragraph (2). The independent counsel shall certify the number of copies necessary for the public, and the Public Printer shall place the cost of the required number to the debit of the independent counsel. Additional copies shall be made available to the public through the depository library program and Superintendent of Documents sales program pursuant to sections 1702 and 1903 of title 44.

''(i) INDEPENDENCE FROM DEPARTMENT OF JUSTICE.—Each independent counsel appointed under this chapter, and the persons appointed by that independent counsel under subsection (c), are employees of the Department of Justice for purposes of sections 202 through 209 of title 18.

''(j) STANDARDS OF CONDUCT APPLICABLE TO INDEPENDENT COUNSEL, PERSONS SERVING IN THE OFFICE OF AN INDEPENDENT COUNSEL, AND THEIR LAW FIRMS.—

''(1) RESTRICTIONS ON EMPLOYMENT WHILE INDEPENDENT COUNSEL AND APPOINTEES ARE SERVING.—

''(A) INDEPENDENT COUNSEL.—During the period in which an independent counsel is serving under this chapter—

''(i) that independent counsel shall have no other paid employment; and

''(ii) any person associated with a firm with which that independent counsel is associated may not represent in any matter any person involved in any investigation or prosecution under this chapter.

''(B) OTHER PERSONS.—During the period in which any person appointed by an independent counsel under subsection (c) is serving in the office of independent counsel, that person may not represent in any matter any person involved in any investigation or prosecution under this chapter.

''(2) POST EMPLOYMENT RESTRICTIONS ON INDEPENDENT COUNSEL AND APPOINTEES.—Each independent counsel and each person appointed by that independent counsel under subsection (c) may not—

''(A) for 3 years following the termination of the service under this chapter of that independent counsel or appointed person, as the case may be, represent any person in any matter if that individual was the subject of an investigation or prosecution under this chapter that was conducted by that independent counsel; or

''(B) for 1 year following the termination of the service under this chapter of that independent counsel or appointed person, as the case may be, represent any person in any matter involving any investigation or prosecution under this chapter.

''(3) ONE-YEAR BAN ON REPRESENTATION BY MEMBERS OF FIRMS OF INDEPENDENT COUNSEL.—Any person who is associated with a firm with which an independent counsel is associated or becomes associated after termination of the service of that independent counsel under this chapter may not, for 1 year following that termination, represent any person in any matter involving any investigation or prosecution under this chapter.

''(4) DEFINITIONS.—For purposes of this subsection—

''(A) the term 'firm' means a law firm whether organized as a partnership or corporation; and

''(B) a person is 'associated' with a firm if that person is an officer, director, partner, or other member or employee of that firm.

''(5) ENFORCEMENT.—The Attorney General and the Director of the Office of Government Ethics have authority to enforce compliance with this subsection. The designated agency ethics official for the Department of Justice shall be the ethics adviser for the independent counsel and employees of the independent counsel.

''(k) CUSTODY OF RECORDS OF AN INDEPENDENT COUNSEL.—

''(1) TRANSFER OF RECORDS.—Upon termination of the office of an independent counsel, that independent counsel shall transfer to the Archivist of the United States all records which have been created or received by that office. Before this transfer, the independent counsel shall clearly identify which of these records are subject to rule 6(e) of the Federal Rules of Criminal Procedure as grand jury materials and which of these records have been classified as national security information. Any records which were compiled by an independent counsel and, upon termination of the independent counsel's office, were stored with the division of the court or elsewhere before the enactment of the Independent Counsel Reauthorization Act of 1987, shall also be transferred to the Archivist of the United States by the division of the court or the person in possession of those records.

''(2) MAINTENANCE, USE, AND DISPOSAL OF RECORDS.—Records transferred to the Archivist under this chapter shall be maintained, used, and disposed of in accordance with chapters 21, 29, and 33 of title 44.

''(3) ACCESS TO RECORDS.—

''(A) IN GENERAL.—Subject to paragraph (4), access to the records transferred to the Archivist under this chapter shall be governed by section 552 of title 5.

''(B) ACCESS BY DEPARTMENT OF JUSTICE.—The Archivist shall, upon written application by the Attorney General, disclose any such records to the Department of Justice for purposes of an ongoing law enforcement investigation or court proceeding, except that, in the case of grand jury materials, those records shall be so disclosed only by order of the court of jurisdiction under rule 6(e) of the Federal Rules of Criminal Procedure.

''(C) EXCEPTION.—Notwithstanding any restriction on access imposed by law, the Archivist and persons employed by the National Archives and Records Administration who are engaged in the performance of normal archival work shall be permitted access to the records transferred to the Archivist under this chapter.

''(4) RECORDS PROVIDED BY CONGRESS.—Records of an investigation conducted by a committee of the House of Representatives or the Senate which are provided to an independent counsel to assist in an investigation or prosecution conducted by that independent counsel—

''(A) shall be maintained as a separate body of records within the records of the independent counsel; and

''(B) shall, after the records have been transferred to the Archivist under this chapter, be made available, except as provided in

paragraph (3) (B) and (C), in accordance with the rules governing release of the records of the House of Congress that provided the records to the independent counsel.

Subparagraph (B) shall not apply to those records which have been surrendered pursuant to grand jury or court proceedings.

''(l) COST AND ADMINISTRATIVE SUPPORT.—

''(1) COST CONTROLS.—

''(A) IN GENERAL.—An independent counsel shall—

''(i) conduct all activities with due regard for expense;

''(ii) authorize only reasonable and lawful expenditures; and

''(iii) promptly, upon taking office, assign to a specific employee the duty of certifying that expenditures of the independent counsel are reasonable and made in accordance with law.

''(B) LIABILITY FOR INVALID CERTIFICATION.—An employee making a certification under subparagraph (A)(iii) shall be liable for an invalid certification to the same extent as a certifying official certifying a voucher is liable under section 3528 of title 31.

''(C) DEPARTMENT OF JUSTICE POLICIES.—An independent counsel shall comply with the established policies of the Department of Justice respecting expenditures of funds.

''(2) BUDGET.—The independent counsel, after consulting with the Attorney General, shall, within 90 days of appointment, submit a budget for the first year of the investigation and, on the anniversary of the appointment, for each year thereafter to the Attorney General and the General Accounting Office. The General Accounting Office shall review the budget and submit a written appraisal of the budget to the independent counsel and the Committees on Governmental Affairs and Appropriations of the Senate and the Committees on the Judiciary and Appropriations of the House of Representatives.

''(3) ADMINISTRATIVE SUPPORT.—The Director of the Administrative Office of the United States Courts shall provide administrative support and guidance to each independent counsel. No officer or employee of the Administrative Office of the United States Courts shall disclose information related to an independent counsel's expenditures, personnel, or administrative acts or arrangements without the authorization of the independent counsel.

''(4) OFFICE SPACE.—The Administrator of General Services, in consultation with the Director of the Administrative Office of the United States Courts, shall promptly provide appropriate office space for each independent counsel. The office space shall be within a Federal building unless the Administrator of General Services determines that other arrangements would cost less. Until the office space is provided, the Administrative Office of the United States Courts shall provide newly appointed independent counsels immediately upon appointment with appropriate, temporary office space, equipment, and supplies.

''(m) EXPEDITED JUDICIAL CONSIDERATION AND REVIEW.—It shall be the duty of the courts of the United States to advance on the docket and to expedite to the greatest extent possible the disposition of matters relating to an investigation and prosecution by an independent counsel under this chapter consistent with the purposes of this chapter.

''§ 595. Congressional oversight

''(a) OVERSIGHT OF CONDUCT OF INDEPENDENT COUNSEL.—

''(1) CONGRESSIONAL OVERSIGHT.—The appropriate committees of the Congress shall have oversight jurisdiction with respect to the official conduct of any independent counsel appointed under this chapter, and the independent counsel shall have the duty to cooperate with the exercise of that oversight jurisdiction.

''(2) REPORTS TO CONGRESS.—An independent counsel appointed under this chapter shall submit to the Congress annually a report on the activities of the independent counsel, including a description of the progress of any investigation or prosecution conducted by the independent counsel. The report may omit any matter that in the judgment of the independent counsel should be kept confidential, but shall provide information adequate to justify the expenditures that the office of the independent counsel has made.

''(b) OVERSIGHT OF CONDUCT OF ATTORNEY GENERAL.—Within 15 days after receiving an inquiry about a particular case under this chapter, which is a matter of public knowledge, from a committee of the Congress with jurisdiction over this chapter, the Attorney General shall provide the following information to that committee with respect to the case:

''(1) When the information about the case was received.

''(2) Whether a preliminary investigation is being conducted, and if so, the date it began.

''(3) Whether an application for the appointment of an independent counsel or a notification that further investigation is not warranted has been filed with the division of the court, and if so, the date of that filing.

''§ 596. Removal of an independent counsel; termination of office

''(a) REMOVAL; REPORT ON REMOVAL.—

''(1) GROUNDS FOR REMOVAL.—

''(A) IN GENERAL.—An independent counsel appointed under this chapter may be removed from office, other than by impeachment and conviction, only by the personal action of the Attorney General and only for good cause, physical or mental disability (if not prohibited by law protecting persons from discrimination on the basis of such a disability), or any other condition that impairs the performance of that independent counsel's duties.

''(B) GOOD CAUSE.—In this paragraph, the term 'good cause' includes—

''(i) a knowing and material failure to comply with written Department of Justice policies relevant to the conduct of a criminal investigation; and

''(ii) an actual personal, financial, or political conflict of interest.

''(2) REPORT TO DIVISION OF THE COURT AND CONGRESS.—If an independent counsel is removed from office, the Attorney General shall promptly submit to the division of the court and the Committees on the Judiciary of the Senate and the House of Representatives a report specifying the facts found and the ultimate grounds for the removal. The committees shall make available to the public that report, except that each committee may, if necessary to protect the rights of any individual named in the report or to prevent undue interference with any pending prosecution, postpone or refrain from publishing any or all of the report. The division of the court may release any or all of the report in accordance with section 594(h)(2).

''(3) JUDICIAL REVIEW OF REMOVAL.—An independent counsel removed from office may obtain judicial review of the removal in a civil action commenced in the United States District Court for the District of Columbia. A member of the division of the court may not hear or determine any such civil action or any appeal of a decision in any such civil action. The independent counsel may be reinstated or granted other appropriate relief by order of the court.

''(b) TERMINATION OF OFFICE.—

''(1) TERMINATION BY ACTION OF INDEPENDENT COUNSEL.—An office of independent counsel shall terminate when—

''(A) the independent counsel notifies the Attorney General that the investigation of all matters within the prosecutorial jurisdiction of the independent counsel or accepted by the independent counsel under section 594(e), and any resulting prosecutions, have been completed or so substantially completed that it would be appropriate for the Department of Justice to complete those investigations and prosecutions; and

''(B) the independent counsel files a final report in compliance with section 594(h)(1)(B).

''(2) TERMINATION BY DIVISION OF THE COURT.—The division of the court, either on its own motion or upon the request of the Attorney General, may terminate an office of independent counsel at any time, on the ground that the investigation of all matters within the prosecutorial jurisdiction of the independent counsel or accepted by the independent counsel under section 594(e), and any resulting prosecutions, have been completed or so substantially completed that it would be appropriate for the Department of Justice to complete those investigations and prosecutions. At the time of that termination, the independent counsel shall file the final report required by section 594(h)(1)(B). If the Attorney General has not made a request under this paragraph, the division of the court shall determine on its own motion whether termination is appropriate under this paragraph no later than 2 years after the appointment of an independent counsel.

''(3) TERMINATION AFTER 2 YEARS.—

''(A) GENERAL RULE.—Except as provided in subparagraph (B), the term of an independent counsel shall terminate at the expiration of 2 years after the date of appointment of the independent counsel and any matters under investigation by the independent counsel shall be transferred to the Attorney General.

''(B) EXCEPTIONS.—

''(i) GOOD CAUSE.—An independent counsel may petition the division of the court to extend the investigation of the independent counsel for up to 1 year for good cause. The division of the court shall determine whether the grant of such an extension is warranted and determine the length of each extension.

''(ii) DILATORY TACTICS.—If the investigation of an independent counsel was delayed by dilatory tactics by persons that could provide evidence that would significantly assist the investigation, an independent counsel may petition the division of the court to extend the investigation of the independent counsel for an additional period of time equal to the amount of time lost by the dilatory tactics. If the division of the court finds that dilatory tactics did delay the investigation, the division of the court shall extend the investigation for a period equal to the delay.

''(c) AUDITS.—

''(1) IN GENERAL.—On or before June 30 of each year, an independent counsel shall prepare a statement of expenditures for the 6 months that ended on the immediately preceding March 31. On or before December 31 of each year, an independent counsel shall prepare a statement of expenditures for the fiscal year that ended on the immediately preceding September 30. An independent counsel whose office is terminated prior to the end of the fiscal year shall prepare a statement of expenditures on or before the date that is 90 days after the date on which the office is terminated.

''(2) COMPTROLLER GENERAL REVIEW.—The Comptroller General shall—

''(A) conduct a financial review of a mid-year statement and a financial audit of a

year-end statement and statement on termination; and

''(B) report the results to the Committee on the Judiciary, Committee on Governmental Affairs, and Committee on Appropriations of the Senate and the Committee on the Judiciary, Committee on Government Reform, and Committee on Appropriations of the House of Representatives not later than 90 days following the submission of each statement.

''§ 597. Relationship with Department of Justice

''(a) SUSPENSION OF OTHER INVESTIGATIONS AND PROCEEDINGS.—Whenever a matter is in the prosecutorial jurisdiction of an independent counsel or has been accepted by an independent counsel under section 594(e), the Department of Justice, the Attorney General, and all other officers and employees of the Department of Justice shall suspend all investigations and proceedings regarding that matter, except to the extent required by section 594(d)(1), and except insofar as the independent counsel agrees in writing that the investigation or proceedings may be continued by the Department of Justice.

''(b) PRESENTATION AS AMICUS CURIAE PERMITTED.—Nothing in this chapter shall prevent the Attorney General or the Solicitor General from making a presentation as amicus curiae to any court as to issues of law raised by any case or proceeding in which an independent counsel participates in an official capacity or any appeal of such a case or proceeding.

''§ 598. Severability

''If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the remainder of this chapter and the application of that provision to other persons not similarly situated or to other circumstances shall not be affected by that invalidation.

''§ 599. Termination of effect of chapter

''This chapter shall cease to be effective 5 years after the date of enactment of the Independent Counsel Reform Act of 2003, except that this chapter shall continue in effect with respect to then pending matters before an independent counsel that in the judgment of that counsel require the continuation until that independent counsel determines those matters have been completed.''.

SEC. 3. ASSIGNMENT OF JUDGES TO DIVISION TO APPOINT INDEPENDENT COUNSELS.

Section 49 of title 28, United States Code, is amended to reads as follows:

''§ 49. Assignment of judges to division to appoint independent counsels

''(a) IN GENERAL.—Beginning with the 3-year period commencing on the date of the enactment of the Independent Counsel Reform Act of 2003, 3 judges shall be assigned for each successive 3-year period to a division of the United States Court of Appeals for the District of Columbia to be the division of the court for the purpose of appointing independent counsels. The Clerk of the United States Court of Appeals for the District of Columbia Circuit shall serve as the clerk of the division of the court and shall provide such services as are needed by the division of the court.

''(b) OTHER JUDICIAL ASSIGNMENTS.—Except as provided in subsection (e), assignment to the division of the court shall not be a bar to other judicial assignments during the term of the division of the court.

''(c) DESIGNATION AND ASSIGNMENT.—The Chief Justice of the United States shall designate and assign by a lottery of all circuit court judges, 3 circuit court judges 1 of whom shall be a judge of the United States Court of Appeals for the District of Columbia, to the division of the court. Not more than 1 judge may be named to the division of the court from a particular court.

''(d) VACANCY.—Any vacancy in the division of the court shall be filled only for the remainder of the 3-year period in which that vacancy occurs and in the same manner as initial assignments to the division of the court were made.

''(e) RECUSAL.—Except as otherwise provided in chapter 40 of this title, no member of the division of the court who participated in a function conferred on the division of the court under chapter 40 of this title involving an independent counsel shall be eligible to participate in any judicial proceeding concerning a matter that—

''(1) involves that independent counsel while the independent counsel is serving in that office; or

''(2) involves the exercise of the independent counsel's official duties, regardless of whether the independent counsel is still serving in that office.''.

By Ms. SNOWE (for herself, Mr. PRYOR, and Mr. BOND):

S. 1713. A bill to amemd title IV of the Small Business Investment Act of 1958, relating to pilot program for credit enhancement guarantees on pools of non-SBA loans; to the Committee on Small Business and Entrepreneurship.

Ms. SNOWE. Mr. President, I rise today to introduce the Small Business Credit Liquidity Act of 2003, and I am pleased to be joined by my colleagues, Senator PRYOR and Senator BOND, as sponsors of this bill.

The genesis of this legislation was a proposal made by the Small Business Administration. When the President's Fiscal Year 2004 budget request was transmitted to the Congress this past February, it stated that the SBA was exploring a possible new approach to expand the opportunities of small businesses to access capital markets by facilitating the securitization of non-SBA small business loans, i.e., loans that were not already guaranteed by the SBA. Increasing access to capital is a high priority of small businesses, and has been one of the Committee's priorities throughout its history. We are always seeking innovative ways to increase access to capital for small businesses, while at the same time measuring the cost and risk of loss that the Federal government must incur to facilitate such financing. Accordingly, we recognized the potential benefits of this proposal for small businesses across the Nation.

At our roundtable on April 30, 2003, the Committee discussed the idea of the securitization of non-SBA small business loans. The SBA reported that it had been exploring this type of program for some time and thought the idea had considerable merit. The agency was uncertain, however, whether it had the statutory authority to develop and implement such a program, absent legislative authorization. After the roundtable, we consulted with the SBA and with participants in the small business financing industry to determine the program's appropriate elements.

In addition to the support the SBA expressed for the proposal in its budget request, at the Committee's roundtable, and in subsequent discussions with Committee staff, the SBA took other steps to help make the proposal a success. For example, the agency entered into a contract with Dun & Bradstreet and with Fair, Isaacs, Co., to create a credit scoring model for small businesses, similar to individual consumer credit scores, to help small businesses gauge their credit quality. The scoring model will be an important asset to the pooling proposal by providing uniformity of pricing, thus reducing one obstacle to the securitization of non-SBA small business loans. The Office of Advocacy of the SBA has also helped build support for the proposal by publicizing the need to take the foundational steps to build a secondary market for small business loans, rather than later trying to create such a market in one step when economic pressures called for an immediate response.

Support for a program to securitize small business loans has also been advocated by the Board of Governors of the Federal Reserve System. In its September 2002 Report to the Congress on the Availability of Credit to Small Businesses, the Federal Reserve stated that the securitization of small business loans could ''substantially influence the availability of credit'' to small businesses. The Federal Reserve noted that one primary benefit of a secondary market would be that small business borrowers could enjoy lower financing costs.

In addition to the Federal Reserve report, other studies have shown that small businesses could benefit from an efficient secondary market for small business loans. Several, including the Federal Reserve report, have noted that a primary obstacle to a widespread secondary market for small business loans has been the lack of standardized information to evaluate and price small business loans efficiently for resale. As noted, the SBA has exercised foresight by securing the contract with Dun & Bradstreet and Fair, Isaacs to address this problem. With the information provided by this new credit-scoring model, the securitization of non-SBA small business loans will be far more feasible.

With input from the SBA, small businesses, and financial firms in hand, and having considered many studies regarding small business credit and the effectiveness of secondary markets, we included a provision similar to this Act in S. 1375, the Small Business Administration 50th Anniversary Reauthorization Act of 2003, which was approved unanimously by the Committee on July 10, 2003.

Working with Senator PRYOR and with other colleagues, we endeavored to provide sufficient specificity in the instructions the legislation gives the SBA regarding the pilot program, so as to ensure that the pooling proposal provides the greatest benefit to small businesses in need of capital while limiting risk to the Federal government.

Unfortunately, despite all the hard work and input from the SBA and from other participants in the small business financing industry, some apparently either failed to recognize or understand the benefits for small businesses that exist in this idea that originated with the SBA. In the interest of expediting the passage of S. 1375 before the SBA's authorizing legislation expired, I reluctantly removed that provision from S. 1375 to focus on those elements of the bill that had to be enacted before the legislation expired. I continue to appreciate the benefits of this proposal, and I am now introducing this provision as a separate bill. With the support this proposal already has, I am confident we can implement this innovative program, and I look forward to the benefits it can provide as we try to assist small businesses to prosper, create more jobs, and pull the economy out of its current doldrums.

The Small Business Credit Liquidity Act of 2003 authorizes the Small Business Administration (SBA) to develop and implement an innovative three-year pilot program to facilitate the securitization of small business loans in order to increase the liquidity of capital available to small businesses. Under the pilot program, the SBA could provide partial guarantees on pools of securitized small business loans that are not otherwise guaranteed by the SBA. The legislation seeks to increase capital available to small businesses, without creating additional risk for the government since the SBA's guarantees would be paid for by fees charged to the financial firms administering the pooling of loans, and thus no appropriations will be necessary.

I believe this pilot program has a great potential to provide increased access to capital on terms that are beneficial to small businesses. The pilot program will also allow lenders, including small lenders such as community banks, to utilize their capital better, and make more loans available to small businesses on better terms, by increasing the liquidity of existing loans.

The pooling structure is based on similar arrangements for home mortgages, credit card loans, and car loans, which have active secondary markets based upon their pooling and securitization. The increased liquidity of loans provided by a secondary market allows lenders to be confident that the loans they make can be sold to investors, so that the lenders can utilize again capital that is otherwise locked into existing loans. In addition, because lenders receive a quick ''turnaround'' on the loans that they make and then sell to investors, the profit that the lenders receive from the interest rates charged to borrowers becomes less important for the lenders, who can receive a smaller per-loan profit, but increase the number of loans they make, and thereby receive a greater profit. Lenders are thus able to make more loans and to provide better terms to borrowers on those loans.

As Chair of the Committee on Small Business, I realize that access to credit for small businesses is often a challenge. The Committee has consistently found that encouraging more lending to small businesses that have a likelihood to succeed, grow, and create new jobs is a sound national policy. The pilot program takes advantage of the successful example of the prior securitizations of SBA small business loans, and of changes in the investment community, to facilitate lending in the small business community for years to come.

This pilot program is not a departure from the SBA's current practice of guaranteeing loans and regulating the securitization of those loans. The SBA already regulates the securitization of both guaranteed portions of 7(a) and 504 loans to small businesses and non-guaranteed portions of the same loans. These loans are made both by Federally-regulated lenders and by lenders that are not federally regulated. In Fiscal Year 2002, the SBA regulated the securitization of $3.4 billion in government-guaranteed 7(a) loans to small businesses. When the guaranteed portions of the 7(a) loans are securitized separately from the non-guaranteed portions, the SBA is guaranteeing 100 percent of the loan pools.

This bill authorizes a pilot program with a much more modest SBA involvement than is represented by the SBA's current financing programs. Under the pilot program, financial firms approved by the SBA would pool loans not individually guaranteed by the SBA. These pooling entities would then issue securities offering returns based upon the returns from the loans in the pool. The securities would be rated by a rating agency and sold to investors.

The pooling entities, also known as ''loan poolers,'' would also offer a partial ''first-loss'' guarantee to investors on the securities' returns. If the loans had insufficient returns to pay the expected returns on the securities, the pooling entities' guarantees would be the first guarantees called into performance to pay investors. The SBA would issue partial, not complete, ''second-loss'' guarantees on the return from the securities, but not on individual loans within the pool. The agency's guarantees would thus be available only after the first-loss guarantees offered by the loan poolers are exhausted.

Significantly, the cost of the SBA guarantees will be fully funded by fees paid by the loan poolers, so no Federal appropriations will be necessary. The bill provides that the SBA will adjust the fees required from the poolers under the pilot program annually, as necessary.

The legislation also includes other provisions to ensure that the pilot program will not lead to increased risk or liability for the government. In particular, it caps the SBA's guarantees on any loan pool at a maximum of 25 percent of the value of the securities issued for that loan pool. In contrast, the SBA's guarantees for the 7(a) and 504 loan programs are as high as 90 percent and 40 percent, respectively, of each loan in those programs. Moreover, in the 504 loan program the SBA is in a first-loss position, sustaining the loss of its full guaranteed amount on a defaulted loan before the private lender incurs any loss, whereas in the pilot program the SBA will be in a second-loss position.

In addition, the bill requires that firms licensed as loan poolers adhere to certain standards, such as being well-capitalized and maintaining sufficient reserves. The bill also provides that the SBA will set standards for the licensed poolers and will review these entities annually to verify that they are conforming with SBA requirements. Among the requirements the SBA would establish for such loan poolers would be standards relating to loan delinquency, default, liquidation, and loss rates. If any licensed loan pooler fails to meet the SBA's standards, the SBA may terminate the pooler's participation in the pilot program.

To ensure that the pilot program is initially implemented on a manageable scale, the legislation specifies that no individual loan pool created by a licensed pooler will exceed $350 million in loans in fiscal year 2004, $400 million in loans in fiscal year 2005, or $450 million in loans in fiscal year 2006. The bill also specifies that the SBA's total guarantees under the pilot program will not exceed $2.1 billion for fiscal year 2004, $3.25 billion for fiscal year 2005, or $4.5 billion for fiscal year 2006.

Finally, this legislation requires three separate types of reports to ensure that the pilot program is properly monitored and evaluated. First, the SBA must provide to the Senate and House Committees on Small Business a report detailing the pooling program before it is implemented, and wait 50 days after submitting the report before implementing the program. In addition, the SBA must file with the Congress, in the SBA's Budget Request and Performance Plan, an annual report about the program's performance. To strengthen the on-going oversight of the pilot program, the bill also specifies that the SBA's annual report to Congress will include information about the pooled loans, including delinquency, default, loss, and recovery rates. Third, the GAO is required to study the program once implemented, and report on the program's performance, including any effects the program may have on the 504 or 7(a) programs, before calendar year 2006.

My Small Business Committee has received expressions of support for the pilot program from representatives of thousands of small businesses that believe the program could improve access to capital, and could improve the terms of loans received, for many small businesses, particularly those without significant real estate property to use as

collateral. In particular, support for the program has been expressed by minority-owned small businesses and by women-owned small businesses. For these small businesses, which often have less real estate collateral than other small businesses, this pilot program holds great potential for creating capital resources to meet their financing needs.

For instance, a recent study by the SBA's Office of Advocacy, issued in September 2003, reveals that small businesses owned by women are more likely than other small businesses to rely on expensive personal credit cards to finance the business, rather than more traditional types of loans. For these small businesses, an increase in the availability of traditional business loans, with lower financing costs and on terms beneficial to the borrowers, would be a welcome development.

In addition, the same study showed that minority-owned small businesses, in addition to being less likely than other small businesses to obtain credit, were far less likely to obtain their credit from traditional Federally regulated depository institutions, and were more likely to resort to financing their businesses through sources such as family, friends, and acquaintances of the business owners. While this bill does not address subjective lender behavior, it does address the objective cost/profit opportunity presented to a lender by a loan to a small business, including a minority-owned or women-owned small business. If a lender is able to sell a conventional small business loan in an efficient secondary market, the potential downside cost of the loan to the lender, e.g., its default risk, is decreased, and the lender is assured that its capital will still be available for other loans.

Financial firms currently involved in the pooling and securitization of loans issued in the SBA's two primary loan guaranty programs, under Section 7(a) of the Small Business Act (''7(a) loans'') and under Section 504 of the Small Business Investment Act of 1958 (''504 loans''), have also expressed their support for the program, and have stated their belief that it will increase small businesses' access to effective capital.

In closing, the Small Business Credit Liquidity Act of 2003 is an innovative approach to a persistent problem for small businesses in this country—access to capital. I believe it has the potential to address this problem for small businesses with effectively no risk to the Federal Government. At a time when our small enterprises are helping to lead the country back onto the road to economic recovery, we should be doing all we can to eliminate obstacles facing small businesses, which hold the greatest potential for job creation in America today. This bill is an important step in that direction, and I urge my colleagues to join me in supporting its enactment.

I ask unanimous consent that the text of the bill and a summary of its provision be printed in the RECORD.

There being no objection, the additional material was ordered to be printed in the RECORD, as follows:

SMALL BUSINESS CREDIT LIQUIDITY ACT OF 2003

SUMMARY OF PROVISIONS

The Small Business Credit Liquidity Act of 2003 authorizes the Small Business Administration (SBA) to develop a three-year pilot program to facilitate the securitization of small business loans, and thereby improve the opportunities for small businesses to obtain capital by increasing the liquidity of small business loans.

Under the pilot program:

Financial firms, after being licensed by the SBA, would create ''pools'' of conventional small business loans, i.e., small business loans not individually guaranteed by the SBA.

These financial firms, also known as ''loan poolers,'' would then issue securities, rated by rating agencies, which would offer returns based upon the returns from the loans in the pools. The securities would be sold to private investors.

The loan poolers would offer partial ''first-loss'' guarantees to investors on the securities' returns (i.e., on the pools themselves, rather than on individual loans). If the loans had insufficient returns to pay the expected returns on the securities, the pooling entities' guarantees would be the first guarantees called into performance to pay investors.

The SBA would issue additional guarantees, on the pools rather than on individual loans, that would be in a ''second loss'' position, meaning that the private investors would receive the full first-loss guarantees from the loan poolers before any SBA guarantee was applied. The SBA's second-loss guarantees for each pool would be limited to 25 percent of the size of that pool.

The SBA's second-loss guarantees would be funded exclusively through fees paid by loan poolers, and would therefore require no appropriated funds.

The SBA would be required to report its plan for the program to the Senate and House Committees on Small Business before implementing the program. The SBA would also be required to file with the Congress, in the agency's Budget Request and Performance Plan, an annual report about the program's performance. In addition, the General Accounting Office (GAO) would be required to study the pilot program after it began and analyze its results.

To ensure that the pilot program is initially implemented on a manageable scale, loan pools under the pilot program would have maximum individual sizes beginning at $350 million for fiscal year 2004 and increasing to $450 million for fiscal year 2006. In addition, the SBA's guarantees would be limited to maximum amounts of $2.1 billion for fiscal year 2004, $3.25 billion for fiscal year 2005, and $4.5 billion for fiscal year 2006.

The program will sunset at the end of fiscal year 2006 unless it is reauthorized by Congress.

S. 1713

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Small Business Credit Liquidity Act of 2003''.

SEC. 2. PILOT PROGRAM FOR GUARANTEES ON POOLS OF NON-SBA LOANS.

Title IV of the Small Business Investment Act of 1958 (15 U.S.C. 692 et seq.) is amended by adding at the end the following:

''PART C—CREDIT ENHANCEMENT GUARANTEES

''SEC. 420. (a)(1) The Administration is authorized, upon such terms and conditions as it may prescribe, in order to encourage lenders to increase the availability of small business financing by improving such lenders' access to reasonable sources of funding, to provide a credit enhancement guarantee, or commitment to guarantee, of the timely payment of a portion of the principal and interest on securities issued and managed by not less than 2 qualified entities authorized and approved by the Administration.

''(2) The entities authorized under this subsection to act as issuers and managers of pools or trusts of loans shall be well-capitalized, as defined by the Administration, and shall maintain sufficient reserves to allow securities to be issued representing interests in each pool or trust that are rated as investment grade by a nationally-recognized rating agency.

''(3) The authority of the entities authorized under this subsection shall be reviewed annually by the Administration and may be renewed upon the satisfactory completion of such review.

''(4) The Administration shall set and maintain standards for entities authorized under this subsection, including standards relating to delinquency, default, liquidation, and loss rates.

''(5) If an entity authorized under this subsection fails to meet the standards set pursuant to paragraph (4), the Administration may terminate the entity's participation in the pilot program under this subsection.

''(b)(1)(A) The Administration may provide its credit enhancement guarantees in respect of securities that represent interests in, or other obligations issued by, a trust, pool, or other entity whose assets (other than the Administration's credit enhancement guarantee and credit enhancements provided by other parties) consist of loans made to small business concerns.

''(B) As used in this paragraph, the term 'small business concern' has the meaning given that term in either the Small Business Act (15 U.S.C. 631 et seq.) or this Act (15 U.S.C. 661 et seq.).

''(2) The credit enhancement guarantees provided by the Administration under paragraph (1) shall be second-loss guarantees that are only available after the full payment of credit enhancement guarantees offered by the entities authorized to act as issuers and managers of pools or trusts of loans under this section.

''(3) A pool or trust of loans shall not be eligible for guarantees under this section—

''(A) if the value of such loans exceeds $350,000,000 in fiscal year 2004;

''(B) if the value of such loans exceeds $400,000,000 in fiscal year 2005; or

''(C) if the value of such loans exceeds $450,000,000 in fiscal year 2006.

''(4) All loans under paragraph (1) shall be originated, purchased, or assembled and managed consistent with requirements prescribed by the Administration in connection with this credit enhancement guarantee program.

''(5) The Administration shall prescribe requirements to be observed by the issuers and managers of the securities covered by credit enhancement guarantees to ensure the safety and soundness of the credit enhancement guarantee program.

''(c) The full faith and credit of the United States is pledged to the payment of all amounts the Administration may be required to pay as a result of credit enhancement guarantees under this section.

''(d)(1) The Administration may issue credit enhancement guarantees in an amount—

''(A) not to exceed $2,100,000,000 in fiscal year 2004;

''(B) not to exceed $3,250,000,000 in fiscal year 2005; and

''(C) not to exceed $4,500,000,000 in fiscal year 2006.

''(2) The Administration shall set the percentage and priority of each credit enhancement guarantee on issued securities at a level not to exceed 25 percent of the value of the securities so that the amount of the Administration's anticipated net loss (if any) as a result of such guarantee is fully reserved in a credit subsidy account funded wholly by fees collected by the Administration from the issuers or managers of the pool or trust.

''(3) The Administration shall charge and collect a fee from the issuer based on the Administration's guaranteed amount of issued securities, and the amount of such fee shall equal the estimated credit subsidy cost of the Administration's credit enhancement guarantee.

''(4) The fees provided for under this subsection shall be adjusted annually, as necessary, by the Administration.

''(5) The Federal government shall not appropriate any funds to finance credit enhancement guarantees under this section.

''(e) REPORT AND ANALYSIS.—

''(1) REPORT.—

''(A) IN GENERAL.—During the development and implementation of the pilot program, the Administrator shall submit a report on the status of the pilot program under this section to Congress in each annual budget request and performance plan.

''(B) CONTENTS.—The report submitted under subparagraph (A) shall include, among other items, information about the loans in the pools or trusts, including delinquency, default, loss, and recovery rates.

''(2) ANALYSIS AND REPORT.—Not later than December 30, 2005, the Comptroller General shall—

''(A) conduct an analysis of the pilot program under this section; and

''(B) submit a report to Congress that contains a summary of the analysis conducted under subparagraph (A) and a description of any effects, not attributable to other causes, of the pilot program on the lending programs under section 7(a) of the Small Business Act (15 U.S.C. 636(a)) and title V of this Act.

''(3) IMPLEMENTATION.—

''(A) REPORT.—After completing operational guidelines to carry out the pilot program under this section, the Administration shall submit a report, which describes the method in which the pilot program will be implemented, to—

''(i) the Committee on Small Business and Entrepreneurship of the Senate; and

''(ii) the Committee on Small Business of the House of Representatives.

''(B) TIMING.—The Administration shall not implement the pilot program under this section until the date that is 50 days after the report has been submitted under subparagraph (A).

''(f) SUNSET PROVISION.—This section shall remain in effect until September 30, 2006.''.

By Mr. CORZINE:

S. 1714. A bill to amend the National Housing Act to increase the maximum mortgage amount limit for FHA-insured mortgages for multifamily housing located in high-cost areas; to the Committee on Banking, Housing, and Urban Affairs.

Mr. CORZINE. Mr. President, today I am introducing legislation, the FHA Multifamily Housing Loan Limit Adjustment Act of 2003, that will improve access to affordable housing for families living in high cost areas where there is a shortage of such housing. This bill was introduced earlier this year by Congressmen GARY MILLER (R–CA) and BARNEY FRANK (D–MA) and was recently approved by the House Financial Services Committee.

The Multifamily Housing Loan Limit Adjustment Act of 2003 is supported by housing and community advocates and has also been endorsed by the National Association of Home Builders, the National Association of Realtors, the Mortgage Bankers Association, the Manufactured Housing Institute, and the National Affordable Housing Management Association.

The Federal Housing Administration's Multifamily Housing programs are among HUD's most successful. The Federal Government has tried a number of different approaches to providing housing over the last 50 years. The most successful of these rely heavily on a public/private partnership that encourages the private sector to produce housing with support from the Federal Government. The FHA mortgage insurance programs have been extremely successful in producing new and rehabilitated housing with little or no cost to the Federal Government.

As you know, rising construction costs have resulted in a shortage of moderately priced affordable rental units. Rent increases now exceed inflation in all regions of the country, and new affordable rental units have become increasingly harder to find. Because of the current dollar limits on loans, FHA insurance cannot be used to help finance construction in high-cost urban areas such as the New York/New Jersey metropolitan area, Philadelphia and San Francisco.

HUD statistics demonstrate this—in 2002 and 2003, no multifamily loans have been FHA insured in New York City, Philadelphia, Los Angeles, Seattle, Massachusetts, or New Jersey.

Increasing the limits on loans for rental housing would create more incentives for public/private investment in communities through America and spur the new production of cooperative housing projects, rental housing for the elderly and new construction or substantial rehabilitation of apartments by for- and non-profit entities.

The National Association of Home Builders estimates that increasing the limits in high cost areas will allow for an additional 6,000 units of rental housing to be built each year in the cities limited by the current law. These 6,000 units will generate $318 million in new income to the residents and businesses in these cities, $38 million in added revenues to the local governments, and 6,720 new jobs. Over a ten year period, the cumulative effects of the additional building will contribute $9 billion in new income to the cities where the limits currently constrain new rental production.

While Congress approved legislation I introduced in 2001 to increase the statutory limits for FHA-insured multifamily project loans to account for inflation, we failed to act on a key provision in my bill to raise the loan limits for high cost areas. I am reintroducing that portion of my bill gain, with the hope that two years later, we can finally achieve the increases we need to make the FHA multifamily programs succeed in all our communities, particularly in those high costs areas that so desperately need additional affordable rental housing.

There is currently no HUD program designed to provide rental housing for working families from 60 percent to 100 percent of median income who are unable to find decent, affordable housing near where they work. Yet, the most recent Census data reveals that these working families, including vital municipal workers like teachers and police officers, are increasingly vulnerable and the lack of decent, affordable housing is increasingly being seen as a significant impediment to local economic growth. This is one reason why the FHA multifamily programs are so important.

Without this much-needed adjustment to the FHA multifamily loan limits, access to affordable housing for our working-citizens will continue to lag, thousands of more families will join the 14 million people who currently face severe housing needs and our nation's economy will suffer.

I hope my Senate colleagues will support the legislation and help ensure that America's working families have access to affordable housing.

I ask unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1714

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''FHA Multifamily Loan Limit Adjustment Act of 2003''.

SEC. 2. MAXIMUM MORTGAGE AMOUNT LIMIT FOR MULTIFAMILY HOUSING IN HIGH-COST AREAS.

Sections 207(c)(3)(B), 213(b)(2)(B)(i), 220(d)(3)(B)(iii)(II), 221(d)(3)(ii)(II), 221(d)(4)(ii)(II), 231(c)(2)(B), and 234(e)(3)(B) of the National Housing Act (12 U.S.C. 1713(c)(3)(B), 1715e(b)(2)(B)(i), 1715k(d)(3)(B)(iii)(II), 1715*l*(d)(3)(ii)(II), 1715*l*(d)(4)(ii)(II), 1715v(c)(2)(B)), and 1715y(e)(3)(B)) are each amended—

(1) by striking ''110 percent'' and inserting ''170 percent''; and

(2) by striking ''140 percent'' and inserting ''170 percent''.

SEC. 3. CATCH-UP ADJUSTMENTS TO CERTAIN MAXIMUM MORTGAGE AMOUNT LIMITS.

(a) SECTION 207 LIMITS.—Section 207(c)(3)(A) of the National Housing Act (12 U.S.C. 1713(c)(3)(A)) is amended by striking ''$11,250'' and inserting ''$17,460''.

(b) SECTION 213 LIMITS.—Section 213(b)(2)(A) of the National Housing Act (12 U.S.C. 1715e(b)(2)(A)) is amended—

(1) by striking ''$38,025'' and inserting ''$41,207'';

(2) by striking ''$42,120'' and inserting ''$47,511'';

(3) by striking ''$50,310'' and inserting ''$57,300'';

(4) by striking ''$62,010'' and inserting ''$73,343'';
(5) by striking ''$70,200'' and inserting ''$81,708'';
(6) by striking ''$49,140'' and inserting ''$49,710'';
(7) by striking ''$60,255'' and inserting ''$60,446'';
(8) by striking ''$75,465'' and inserting ''$78,197''; and
(9) by striking ''$85,328'' and inserting ''$85,836''.

NAHMA, NATIONAL AFFORDABLE HOUSING MANAGEMENT ASSOCIATION,
Alexandria, VA, October 2, 2003.

Hon. JON S. CORZINE.
U.S. Senate, 502 Senate Hart Building, Washington, DC.

DEAR SENATOR CORZINE: I am writing to convey the National Affordable Housing Management Association's (NAHMA) strong support for the FHA Multifamily Housing Loan Limit Adjustment Act.

NAHMA represents owners and individuals involved with the management of affordable multifamily housing developments. Affordable properties owned and managed by NAHMA members are subject to the regulations of federal agencies including the U.S. Department of Housing and Urban Development, the U.S. Rural Housing Service, and the Internal Revenue Service. NAHMA members provide quality affordable housing to more than two million Americans with very low and moderate incomes. Executives of property management companies, owners of affordable rental housing, public agencies and vendors that serve the affordable housing industry constitute NAHMA's membership.

The FHA multifamily insurance programs are an important component of any affordable housing strategy. Your legislation, which increases the maximum Federal Housing Administration (FHA) multifamily mortgage loan limits in high cost areas from 110 to 170 percent above the base loan limits, will help increase the availability of affordable housing for low-to-moderate income families. This bill will encourage production of multifamily developments in some of the most expensive areas in the nation—where affordable housing is often desperately needed.

NAHMA is pleased to offer its strong support for the FHA Multifamily Housing Loan Limit Adjustment Act. I look forward to working with you to advance this important legislation.

Sincerely,

KRIS COOK, CAE,
Executive Director.

NATIONAL ASSOCIATION OF REALTORS, NATIONAL ASSOCIATION OF HOME BUILDERS, MORTGAGE BANKERS ASSOCIATION,
October 2, 2003.

Hon. JON S. CORZINE,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR CORZINE: On behalf of the membership of our associations who represent the home buying, home building, and home financing industries, we are writing in support of legislation you intend to introduce to increase the Federal Housing Administration (FHA) multifamily loan limits in high-cost areas. Over the past 2 years, Congress and the Administration have taken steps to update the FHA multifamily loan limits. However, one final hurdle remains since the current maximum FHA multifamily mortgage limits are inadequate and continue to constrain new construction and rehabilitation in many urban and suburban areas, where construction costs are significantly higher than in the rest of the country.

The FHA's multifamily mortgage insurance programs enable qualified borrowers to obtain long-term, fixed-rate, nonrecourse, financing for a variety of multifamily properties that are affordable to low- and moderate-income families. This public/private partnership has resulted in a successful program providing housing for a portion of the population not usually served by private industry alone. In addition to serving a valuable purpose, according to recent calculations by HUD and OMB indicate that virtually all of the FHA multifamily insurance programs operate on a break-even basis or raise revenue for the government.

Without higher FHA multifamily loan limits in high-cost markets, critical housing needs will go unmet. Those who will be most affected will include low- and moderate-income families, including important community service providers such as teachers, firefighters, and police officers. By increasing the maximum loan limit for FHA's multifamily programs, these programs can help provide the housing opportunities necessary for the economic and social well being of our Nation. We applaud your efforts to increase the availability of affordable housing in our Nation's high-cost areas.

By Mr. CAMPBELL (for himself and Mr. INOUYE):

S. 1715. A bill to amend the Indian Self-Determination and Education Assistance Act to provide further self-governance by Indian tribes; to the Committee on Indian Affairs.

Mr. CAMPBELL. Mr. President, today I am pleased to be joined by Senator INOUYE in introducing the Department of Interior Tribal Self Governance Amendments of 2003, a bill that is a companion to the bill we introduced yesterday, the Department of Health and Human Services Tribal Self Governance Amendments of 2003.

Taken together, these bills will strengthen the government-to-government relationship between the United States and Indian tribes by shepherding in the next phase of Indian Self Governance.

Due to the Federal reservation status of Indian lands, the Department of the Interior, among all Federal agencies, has historically had the most significant impact on the lives of Indians.

This longstanding relationship with Indian tribes has often been stormy, with Federal bureaucrats providing all or nearly all services to Indian tribes and their members, including police, fire, education and health care services.

The Federal-tribal relationship took a decided turn for the better in 1975 with the enactment of the Indian Self Determination and Education Assistance Act of 1975, Pub. L. 93–638. Since passage of Pub. L. 93–638, Congress has systematically devolved to Indian tribes the authority and responsibility to manage Federal programs within the Bureau of Indian Affairs and the Indian Health Service.

The bill I am introducing today will expand the provisions of Self Governance within the Department of the Interior by creating a Demonstration Project within the Department of the Interior for non-BIA programs.

This Demonstration Project is integral to the continued success of Self Governance for Indians, as there remain many non-BIA programs with the Department that affect the ability of Indian tribes to better serve their members.

I urge my colleagues to join me in supporting this important bill.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1715

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Department of the Interior Tribal Self-Governance Act of 2003''.

SEC. 2. AMENDMENT.

The Indian Self-Determination and Education Assistance Act is amended by striking title IV (25 U.S.C. 458aa et seq.) and inserting the following:

''TITLE IV—TRIBAL SELF-GOVERNANCE

''SEC. 401. DEFINITIONS.

''In this title:

''(1) COMPACT.—The term 'compact' means a compact under section 404.

''(2) CONSTRUCTION PROGRAM.—The term 'construction program' means a tribal undertaking to complete any or all included programs relating to the administration, planning, environmental determination, design, construction, repair, improvement, or expansion of roads, bridges, buildings, structures, systems, or other facilities for purposes of housing, law enforcement, detention, sanitation, water supply, education, administration, community health, irrigation, agriculture, conservation, flood control, transportation, or port facilities or for other tribal purposes.

''(3) CONSTRUCTION PROJECT.—The term 'construction project' means a tribal undertaking that constructs 1 or more roads, bridges, buildings, structures, systems, or other facilities for purposes of housing, law enforcement, detention, sanitation, water supply, education, administration, community health, irrigation, agriculture, conservation, flood control, transportation, or port facilities or for other tribal purposes.

''(4) DEPARTMENT.—The term 'Department' means the Department of the Interior.

''(5) FUNDING AGREEMENT.—The term 'funding agreement' means a funding agreement under section 405(b).

''(6) GROSS MISMANAGEMENT.—The term 'gross mismanagement' means a significant violation, shown by clear and convincing evidence, of a compact, funding agreement, or statutory or regulatory requirement applicable to Federal funds transferred to an Indian tribe by a compact or funding agreement that results in a significant reduction of funds being made available for the included programs assumed by an Indian tribe.

''(7) INCLUDED PROGRAM.—The term 'included program' means a program that is eligible for inclusion under a funding agreement (including any portion of such a program and any function, service, or activity performed under such a program).

''(8) INDIAN TRIBE.—The term 'Indian tribe', in a case in which an Indian tribe authorizes another Indian tribe, an inter-tribal consortium, or a tribal organization to plan for or carry out an included program on its behalf in accordance with section 403(a)(3), includes

the other authorized Indian tribe, inter-tribal consortium, or tribal organization.

''(9) INHERENT FEDERAL FUNCTION.—The term 'inherent Federal function' means a Federal function that cannot legally be delegated to an Indian tribe.

''(10) INTER-TRIBAL CONSORTIUM.—

''(A) IN GENERAL.—The term 'inter-tribal consortium' means a coalition of 2 more separate Indian tribes that join together for the purpose of participating in self-governance.

''(B) INCLUSION.—The term 'inter-tribal organization' includes a tribal organization.

''(11) SECRETARY.—The term 'Secretary' means the Secretary of the Interior.

''(12) SELF-GOVERNANCE.—The term 'self-governance' means the program of self-governance established under section 402.

''(13) TRIBAL SHARE.—The term 'tribal share' means an Indian tribe's portion of all funds and resources that support secretarial included programs that are not required by the Secretary for the performance of inherent Federal functions.

''SEC. 402. ESTABLISHMENT.

''The Secretary shall carry out a program within the Department to be known as the 'Tribal Self-Governance Program'.

''SEC. 403. SELECTION OF PARTICIPATING INDIAN TRIBES.

''(a) IN GENERAL.—

''(1) CONTINUING PARTICIPATION.—An Indian tribe that was participating in the Tribal Self-Governance Demonstration Project at the Department under title III on October 25, 1994, may elect to participate in self-governance under this title.

''(2) ADDITIONAL PARTICIPANTS.—

''(A) IN GENERAL.—In addition to Indian tribes participating in self-governance under paragraph (1), an Indian tribe that meets the eligibility criteria specified in subsection (b) shall be entitled to participate in self-governance.

''(B) NO LIMITATION.—The Secretary shall not limit the number of additional Indian tribes to be selected each year from among Indian tribes that are eligible under subsection (b).

''(3) OTHER AUTHORIZED INDIAN TRIBE, INTER-TRIBAL CONSORTIUM, OR TRIBAL GOVERNMENT.—If an Indian tribe authorizes another Indian tribe, an inter-tribal consortium, or a tribal organization to plan for or carry out an included program on its behalf under this title, the authorized Indian tribe, inter-tribal consortium, or tribal organization shall have the rights and responsibilities of the authorizing Indian tribe (except as otherwise provided in the authorizing resolution).

''(4) JOINT PARTICIPATION.—Two or more Indian tribes that are not otherwise eligible under subsection (b) may be treated as a single Indian tribe for the purpose of participating in self-governance as a consortium if—

''(A) if each Indian tribe so requests; and

''(B) the consortium itself is eligible under subsection (b).

''(5) TRIBAL WITHDRAWAL FROM A CONSORTIUM.—

''(A) IN GENERAL.—An Indian tribe that withdraws from participation in an inter-tribal consortium or tribal organization, in whole or in part, shall be entitled to participate in self-governance if the Indian tribe is eligible under subsection (b).

''(B) EFFECT OF WITHDRAWAL.—If an Indian tribe withdraws from participation in an inter-tribal consortium or tribal organization, the Indian tribe shall be entitled to its tribal share of funds and resources supporting the included programs that the Indian tribe will be carrying out under the compact and funding agreement of the Indian tribe.

''(C) PARTICIPATION IN SELF-GOVERNANCE.—The withdrawal of an Indian tribe from an inter-tribal consortium or tribal organization shall not affect the eligibility of the inter-tribal consortium or tribal organization to participate in self-governance on behalf of 1 or more other Indian tribes.

''(D) WITHDRAWAL PROCESS.—

''(i) IN GENERAL.—An Indian tribe may fully or partially withdraw from a participating inter-tribal consortium or tribal organization its tribal share of any included program that is included in a compact or funding agreement.

''(ii) EFFECTIVE DATE.—

''(I) IN GENERAL.—A withdrawal under clause (i) shall become effective on the date specified in the resolution that authorizes transfer to the participating tribal organization or inter-tribal consortium.

''(II) NO SPECIFIED DATE.—In the absence of a date specified in the resolution, the withdrawal shall become effective on—

''(aa) the earlier of—

''(AA) 1 year after the date of submission of the request; or

''(BB) the date on which the funding agreement expires; or

''(bb) such date as may be agreed on by the Secretary, the withdrawing Indian tribe, and the tribal organization or inter-tribal consortium that signed the compact or funding agreement on behalf of the withdrawing Indian tribe, inter-tribal consortium, or tribal organization.

''(E) DISTRIBUTION OF FUNDS.—If an Indian tribe or tribal organization eligible to enter into a self-determination contract under title I or a compact or funding agreement under this title fully or partially withdraws from a participating inter-tribal consortium or tribal organization, the withdrawing Indian tribe—

''(i) may elect to enter into a self-determination contract or compact, in which case—

''(I) the withdrawing Indian tribe or tribal organization shall be entitled to its tribal share of funds and resources supporting the included programs that the Indian tribe will be carrying out under its own self-determination contract or compact and funding agreement (calculated on the same basis as the funds were initially allocated to the funding agreement of the inter-tribal consortium or tribal organization); and

''(II) the funds referred to in subclause (I) shall be withdrawn by the Secretary from the funding agreement of the inter-tribal consortium or tribal organization and transferred to the withdrawing Indian tribe, on the condition that sections 102 and 105(i), as appropriate, shall apply to the withdrawing Indian tribe; or

''(ii) may elect not to enter into a self-determination contract or compact, in which case all funds not obligated by the inter-tribal consortium associated with the withdrawing Indian tribe's returned included programs, less closeout costs, shall be returned by the inter-tribal consortium to the Secretary for operation of the included programs included in the withdrawal.

''(F) RETURN TO MATURE CONTRACT STATUS.—If an Indian tribe elects to operate all or some included programs carried out under a compact or funding agreement under this title through a self-determination contract under title I, at the option of the Indian tribe, the resulting self-determination contract shall be a mature self-determination contract.

''(b) ELIGIBILITY.—To be eligible to participate in self-governance, an Indian tribe shall—

''(1) complete the planning phase described in subsection (c);

''(2) request participation in self-governance by resolution or other official action by the tribal governing body; and

''(3) demonstrate, for the 3 fiscal years preceding the date on which the Indian tribe requests participation, financial stability and financial management capability as evidenced by the Indian tribe's having no uncorrected significant and material audit exceptions in the required annual audit of its self-determination or self-governance agreements with any Federal agency.

''(c) PLANNING PHASE.—

''(1) IN GENERAL.—An Indian tribe seeking to participate in self-governance shall complete a planning phase in accordance with this subsection.

''(2) ACTIVITIES.—The planning phase—

''(A) shall be conducted to the satisfaction of the Indian tribe; and

''(B) shall include—

''(i) legal and budgetary research; and

''(ii) internal tribal government planning and organizational preparation.

''(d) GRANTS.—

''(1) IN GENERAL.—Subject to the availability of appropriations, an Indian tribe that meets the requirements of paragraphs (2) and (3) of subsection (b) shall be eligible for grants—

''(A) to plan for participation in self-governance; and

''(B) to negotiate the terms of participation by the Indian tribe or tribal organization in self-governance, as set forth in a compact and a funding agreement.

''(2) RECEIPT OF GRANT NOT REQUIRED.—Receipt of a grant under paragraph (1) shall not be a requirement of participation in self-governance.

''SEC. 404. COMPACTS.

''(a) IN GENERAL.—The Secretary shall negotiate and enter into a written compact with as Indian tribe participating in self-governance in a manner that is consistent with the trust responsibility of the Federal Government, treaty obligations, and the government-to-government relationship between Indian tribes and the United States.

''(b) CONTENTS.—A compact under subsection (a) shall—

''(1) specify the general terms of the government-to-government relationship between the Indian tribe and the Secretary; and

''(2) include such terms as the parties intend shall control year after year.

''(c) AMENDMENT.—A compact under subsection (a) may be amended only by agreement of the parties.

''(d) EFFECTIVE DATE.—The effective date of a compact under subsection (a) shall be—

''(1) the date of the execution of the compact by the Indian tribe; or

''(2) another date agreed to by the parties.

''(e) DURATION.—A compact under subsection (a) shall remain in effect for so long as permitted by Federal law or until terminated by written agreement, retrocession, or reassumption.

''(f) EXISTING COMPACTS.—An Indian tribe participating in self-governance under this title, as in effect on the date of enactment of the Department of the Interior Tribal Self-Governance Act of 2003, shall have the option at any time after that date—

''(1) to retain its negotiated compact (in whole or in part) to the extent that the provisions of the compact are not directly contrary to any express provision of this title; or

''(2) to negotiate a new compact in a manner consistent with this title.

''SEC. 405. FUNDING AGREEMENTS.

''(a) IN GENERAL.—The Secretary shall negotiate and enter into a written funding agreement with the governing body of an Indian tribe in a manner that is consistent with the trust responsibility of the Federal Government, treaty obligations, and the government-to-government relationship between Indian tribes and the United States.

''(b) INCLUDED PROGRAMS.—

''(1) BUREAU OF INDIAN AFFAIRS AND OFFICE OF SPECIAL TRUSTEE.—

''(A) IN GENERAL.—A funding agreement shall, as determined by the Indian tribe, authorize the Indian tribe to plan, conduct, consolidate, administer, and receive full tribal share funding for all programs carried out by the Bureau of Indian Affairs and the Office of Special Trustee, without regard to the agency or office within which the program is performed (including funding for agency, area, and central office functions in accordance with section 409(c)), that—

''(i) are provided for in the Act of April 16, 1934 (25 U.S.C. 452 et seq.);

''(ii) the Secretary administers for the benefit of Indians under the Act of November 2, 1921 (25 U.S.C. 13), or any subsequent Act;

''(iii) the Secretary administers for the benefit of Indians with appropriations made to agencies other than the Department of the Interior; or

''(iv) are provided for the benefit of Indians because of their status as Indians.

''(B) INCLUSIONS.—Programs described in subparagraph (A) shall include all programs with respect to which Indian tribes or Indians are primary or significant beneficiaries.

''(2) OTHER AGENCIES.—A funding agreement under subsection (a) shall, as determined by the Indian tribe, authorize the Indian tribe to plan, conduct, consolidate, administer, and receive full tribal share funding for all programs carried out by the Secretary outside the Bureau of Indian Affairs, without regard to the agency or office within which the program is performed, including funding for agency, area, and central office functions in accordance with subsection 409(c), to the extent that the included programs are within the scope of paragraph (1).

''(3) DISCRETIONARY PROGRAMS.—A funding agreement under subsection (a) may, in accordance with such additional terms as the parties consider to be appropriate, include programs administered by the Secretary, in addition to programs described in paragraphs (1) and (2), that are of special geographical, historical, or cultural significance to the Indian tribe.

''(4) COMPETITIVE BIDDING.—Nothing in this section—

''(A) supersedes any express statutory requirement for competitive bidding; or

''(B) prohibits the inclusion in a funding agreement of a program in which non-Indians have an incidental or legally identifiable interest.

''(5) EXCLUDED FUNDING.—A funding agreement shall not authorize an Indian tribe to plan, conduct, administer, or receive tribal share funding under any program that—

''(A) is provided under the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801 et seq.);

''(B) is provided for elementary and secondary schools under the formula developed under section 1128 of the Education Amendments of 1978 (25 U.S.C. 2008); and

''(C) is provided for the Flathead Agency Irrigation Division or the Flathead Agency Power Division (except that nothing in this section affects the contract authority of the Flathead Agency Irrigation Division or the Flathead Agency Power Division under section 102).

''(6) SERVICES, FUNCTIONS, AND RESPONSIBILITIES.—A funding agreement shall specify—

''(A) the services to be provided under the funding agreement;

''(B) the functions to be performed under the funding agreement; and

''(C) the responsibilities of the Indian tribe and the Secretary under the funding agreement.

''(7) BASE BUDGET.—A funding agreement shall, at the option of the Indian tribe, provide for a stable base budget specifying the recurring funds (including funds available under section 106(a)) to be transferred to the Indian tribe, for such period as the Indian tribe specifies in the funding agreement, subject to annual adjustment only to reflect changes in congressional appropriations.

''(8) NO WAIVER OF TRUST RESPONSIBILITY.—A funding agreement shall prohibit the Secretary from waiving, modifying, or diminishing in any way the trust responsibility of the United States with respect to Indian tribes and individual Indians that exists under treaties, Executive orders, court decisions, and other laws.

''(c) AMENDMENT.—The Secretary shall not revise, amend, or require additional terms in a new or subsequent funding agreement without the consent of the Indian tribe.

''(d) EFFECTIVE DATE.—A funding agreement shall become effective on the date specified in the funding agreement.

''(e) EXISTING AND SUBSEQUENT FUNDING AGREEMENTS.—

''(1) SUBSEQUENT FUNDING AGREEMENTS.—Absent notification from an Indian tribe that is withdrawing or retroceding the operation of 1 or more included programs identified in a funding agreement, or unless otherwise agreed to by the parties to the funding agreement—

''(A) a funding agreement shall remain in effect until a subsequent funding agreement is executed; and

''(B) the term of the subsequent funding agreement shall be retroactive to the end of the term of the preceding funding agreement.

''(2) EXISTING FUNDING AGREEMENTS.—An Indian tribe that was participating in self-governance under this title on the date of enactment of the Department of the Interior Tribal Self-Governance Act of 2003 shall have the option at any time after that date—

''(A) to retain its existing funding agreement (in whole or in part) to the extent that the provisions of that funding agreement are not directly contrary to any express provision of this title; or

''(B) to negotiate a new funding agreement in a manner consistent with this title.

''(3) MULTIYEAR FUNDING AGREEMENTS.—An Indian tribe may, at the discretion of the Indian tribe, negotiate with the Secretary for a funding agreement with a term that exceeds 1 year.

''SEC. 406. GENERAL PROVISIONS.

''(a) APPLICABILITY.—An Indian tribe may include in any compact or funding agreement provisions that reflect the requirements of this title.

''(b) CONFLICTS OF INTEREST.—An Indian tribe participating in self-governance shall ensure that internal measures are in place to address, pursuant to tribal law and procedures, conflicts of interest in the administration of included programs.

''(c) AUDITS.—

''(1) SINGLE AGENCY AUDIT ACT.—Chapter 75 of title 31, United States Code, shall apply to a funding agreement under this title.

''(2) COST PRINCIPLES.—An Indian tribe shall apply cost principles under the applicable Office of Management and Budget circular, except as modified by—

''(A) section 106 of this Act or any other provision of law; or

''(B) any exemptions to applicable Office of Management and Budget circulars granted by the Office of Management and Budget.

''(3) FEDERAL CLAIMS.—Any claim by the Federal Government against an Indian tribe relating to funds received under a funding agreement based on an audit under this subsection shall be subject to section 106(f).

''(d) REDESIGN AND CONSOLIDATION.—An Indian tribe may redesign or consolidate included programs or reallocate funds for included programs in any manner that the Indian tribe determines to be in the best interest of the Indian community being served, so long as the redesign or consolidation does not have the effect of denying eligibility for services to population groups otherwise eligible to be served under applicable Federal law.

''(e) RETROCESSION.—

''(1) IN GENERAL.—An Indian tribe may fully or partially retrocede to the Secretary any included program under a compact or funding agreement.

''(2) EFFECTIVE DATE.—

''(A) AGREEMENT.—Unless the Indian tribe rescinds a request for retrocession, the retrocession shall become effective on the date specified by the parties in the compact or funding agreement.

''(B) NO AGREEMENT.—In the absence of such a specification, the retrocession shall become effective on—

''(i) the earlier of—

''(I) the date that is 1 year after the date of submission of the request; or

''(II) the date on which the funding agreement expires; or

''(ii) such date as may be agreed on by the Secretary and the Indian tribe.

''(f) NONDUPLICATION.—A funding agreement shall provide that, for the period for which, and to the extent to which, funding is provided to an Indian tribe under this title, the Indian tribe—

''(1) shall not be entitled to enter into a contract with the Secretary for funds under section 102, except that the Indian tribe shall be eligible for new included programs on the same basis as other Indian tribes; and

''(2) shall be responsible for the administration of included programs in accordance with the compact or funding agreement.

''(g) RECORDS.—

''(1) IN GENERAL.—Unless an Indian tribe specifies otherwise in the compact or funding agreement, records of an Indian tribe shall not be treated as agency records for purposes of chapter 5 of title 5, United States Code.

''(2) RECORDKEEPING SYSTEM.—An Indian tribe shall—

''(A) maintain a recordkeeping system; and

''(B) on 30 days' notice, provide the Secretary with reasonable access to the records to enable the Department to meet the requirements of sections 3101 through 3106 of title 44, United States Code.

''SEC. 407. PROVISIONS RELATING TO THE SECRETARY.

''(a) TRUST EVALUATIONS.—A funding agreement shall include a provision to monitor the performance of trust functions by the Indian tribe through the annual trust evaluation.

''(b) REASSUMPTION.—

''(1) IN GENERAL.—A compact or funding agreement shall include provisions for the Secretary to reassume an included program and associated funding if there is a specific finding relating to that included program of—

''(A) imminent jeopardy to a physical trust asset, natural resource, or public health and safety that—

''(i) is caused by an act or omission of the Indian tribe; and

''(ii) arises out of a failure to carry out the compact or funding agreement; or

''(B) gross mismanagement with respect to funds transferred to an Indian tribe by a compact or funding agreement, as determined by the Secretary in consultation with the Inspector General, as appropriate.

''(2) PROHIBITION.—The Secretary shall not reassume operation of an included program unless—

''(A) the Secretary first provides written notice and a hearing on the record to the Indian tribe; and

''(B) the Indian tribe does not take corrective action to remedy gross mismanagement or the imminent jeopardy to a physical trust asset, natural resource, or public health and safety.

''(3) EXCEPTION.—

''(A) IN GENERAL.— Notwithstanding subparagraph (2), the Secretary may, on written notice to the Indian tribe, immediately reassume operation of an included program if—

''(i) the Secretary makes a finding of both imminent and substantial jeopardy and irreparable harm to a physical trust asset, a natural resource, or the public health and safety caused by an act or omission of the Indian tribe; and

''(ii) the imminent and substantial jeopardy and irreparable harm to the physical trust asset, natural resource, or public health and safety arises out of a failure by the Indian tribe to carry out its compact or funding agreement.

''(B) REASSUMPTION.—If the Secretary reassumes operation of an included program under subparagraph (A), the Secretary shall provide the Indian tribe with a hearing on the record not later than 10 days after the date of reassumption.

''(c) INABILITY TO AGREE ON COMPACT OR FUNDING AGREEMENT.—

''(1) FINAL OFFER.—If the Secretary and a participating Indian tribe are unable to agree, in whole or in part, on the terms of a compact or funding agreement (including funding levels), the Indian tribe may submit a final offer to the Secretary.

''(2) DETERMINATION.—Not more than 45 days after the date of submission of a final offer, or as otherwise agreed to by the Indian tribe, the Secretary shall review and make a determination with respect to the final offer.

''(3) NO TIMELY DETERMINATION.—If the Secretary fails to make a determination with respect to a final offer within the time specified in paragraph (2), the Secretary shall be deemed to have agreed to the offer.

''(4) REJECTION OF FINAL OFFER.—

''(A) IN GENERAL.—If the Secretary rejects a final offer (or 1 or more provisions or funding levels in a final offer), the Secretary shall—

''(i) provide timely written notification to the Indian tribe that contains a specific finding that clearly demonstrates, or that is supported by a controlling legal authority, that—

''(I) the amount of funds proposed in the final offer exceeds the applicable funding level to which the Indian tribe is entitled under this title;

''(II) the included program that is the subject of the final offer is an inherent Federal function;

''(III) the Indian tribe cannot carry out the included program in a manner that would not result in significant danger or risk to the public health; or

''(IV) the Indian tribe is not eligible to participate in self-governance under section 403(b);

''(ii) provide technical assistance to overcome the objections stated in the notification required by clause (i);

''(iii) provide the Indian tribe a hearing on the record with the right to engage in full discovery relevant to any issue raised in the matter and the opportunity for appeal on the objections raised (except that the Indian tribe may, in lieu of filing an appeal, directly proceed to bring a civil action in United States district court under section 110(a)); and

''(iv) provide the Indian tribe the option of entering into the severable portions of a final proposed compact or funding agreement (including a lesser funding amount, if any), that the Secretary did not reject, subject to any additional alterations necessary to conform the compact or funding agreement to the severed provisions.

''(B) EFFECT OF EXERCISING CERTAIN OPTION.—If an Indian tribe exercises the option specified in subparagraph (A)(iv)—

''(i) the Indian tribe shall retain the right to appeal the rejection by the Secretary under this section; and

''(ii) clauses (i), (ii), and (iii) of that subparagraph shall apply only to the portion of the proposed final compact or funding agreement that was rejected by the Secretary.

''(d) BURDEN OF PROOF.—In any administrative hearing or appeal or civil action brought under this section, the Secretary shall have the burden of demonstrating by clear and convincing evidence the validity of the grounds for rejecting a final offer made under subsection (c) or the grounds for a reassumption under subsection (b).

''(e) GOOD FAITH.—

''(1) IN GENERAL.—In the negotiation of compacts and funding agreements, the Secretary shall at all times negotiate in good faith to maximize implementation of the self-governance policy.

''(2) POLICY.—The Secretary shall carry out this Act in a manner that maximizes the policy of tribal self-governance.

''(f) SAVINGS.—To the extent that included programs carried out by Indian tribes under this title reduce the administrative or other responsibilities of the Secretary with respect to the operation of Indian programs and result in savings that have not otherwise been included in the amount of tribal shares and other funds determined under section 409(c), the Secretary shall make such savings available to the Indian tribes, inter-tribal consortia, or tribal organizations for the provision of additional services to program beneficiaries in a manner equitable to directly served, contracted, and included programs.

''(g) TRUST RESPONSIBILITY.—The Secretary may not waive, modify, or diminish in any way the trust responsibility of the United States with respect to Indian tribes and individual Indians that exists under treaties, Executive orders, other laws, or court decisions.

''(h) DECISIONMAKER.—A decision that constitutes final agency action and relates to an appeal within the Department brought under subsection (c)(4) may be made—

''(1) by an official of the Department who holds a position at a higher organizational level within the Department than the level of the departmental agency in which the decision that is the subject of the appeal was made; or

''(2) by an administrative law judge.

''(i) RULE OF CONSTRUCTION.—Each provision of this title and each provision of a compact or funding agreement shall be liberally construed for the benefit of the Indian tribe participating in self-governance, and any ambiguity shall be resolved in favor of the Indian tribe.

''SEC. 408. CONSTRUCTION PROGRAMS AND CONSTRUCTION PROJECTS.

''(a) IN GENERAL.—An Indian tribe participating in self-governance may carry out a construction program or construction project under this title in the same manner as the Indian tribe carries out other included programs under this title, consistent with the provisions of all applicable Federal laws.

''(b) FEDERAL FUNCTIONS.—An Indian tribe participating in self-governance may, in carrying out construction projects under this title, elect to assume all Federal responsibilities under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the National Historic Preservation Act (16 U.S.C. 470 et seq.), and related provisions of law that would apply if the Secretary were to carry out a construction project, by adopting a resolution—

''(1) designating a certifying officer to represent the Indian tribe and to assume the status of a responsible Federal official under those laws; and

''(2) accepting the jurisdiction of the Federal courts for the purpose of enforcement of the responsibilities of the responsible Federal official under applicable environmental law.

''(c) NEGOTIATIONS.—

''(1) IN GENERAL.—In accordance with all applicable Federal laws, a construction program or construction project shall be treated in the same manner and be subject to all provisions of this Act as are all other tribal assumptions of included programs under this Act.

''(2) CONSTRUCTION PROJECTS.—A provision shall be included in the funding agreement that, for each construction project—

''(A) states the approximate start and completion dates of the construction project, which may extend for 1 or more years;

''(B) provides a general description of the construction project;

''(C) states the responsibilities of the Indian tribe and the Secretary with respect to the construction project;

''(D) describes—

''(i) the ways in which the Indian tribe will address project-related environmental considerations; and

''(ii) the standards by which the Indian tribe will accomplish the construction project; and

''(E) the amount of funds provided for the construction project.

''(d) CODES AND STANDARDS; TRIBAL ASSURANCES.—A funding agreement shall contain a certification by the Indian tribe that the Indian tribe will establish and enforce procedures designed to ensure that all construction-related included programs carried out through the funding agreement adhere to building codes and other codes and architectural and engineering standards (including public health and safety standards) identified by the Indian tribe in the funding agreement, which codes and standards shall be in conformity with nationally recognized standards for comparable projects in comparable locations.

''(e) RESPONSIBILITY FOR COMPLETION.—The Indian tribe shall assume responsibility for the successful completion of a construction project in accordance with the funding agreement.

''(f) FUNDING.—

''(1) IN GENERAL.—At the option of an Indian tribe, full funding for a construction program or construction project carried out under this title shall be included in a funding agreement as an annual advance payment.

''(2) ENTITLEMENT.—Notwithstanding the annual advance payment provisions or any other provision of law, an Indian tribe shall be entitled to receive in its initial funding agreement all funds made available to the Secretary for multiyear construction programs and projects carried out under this title.

''(3) CONTINGENCY FUNDS.—The Secretary shall include associated project contingency funds in an advance payment described in paragraph (1), and the Indian tribe shall be responsible for the management of the contingency funds included in the funding agreement.

''(4) REALLOCATION OF SAVINGS.—

''(A) IN GENERAL.—Notwithstanding any other provision of an annual Act of appropriation or other Federal law, an Indian tribe may reallocate any financial savings realized by the Indian tribe arising from efficiencies in the design, construction, or any

other aspect of a construction program or construction project.

''(B) PURPOSES.—A reallocation under subparagraph (A) shall be for construction-related activity purposes generally similar to those for which the funds were appropriated and distributed to the Indian tribe under the funding agreement.

''(g) APPROVAL.—

''(1) IN GENERAL.—If the planning and design documents for a construction project are prepared by an Indian tribe in a manner that is consistent with the certification given by the Indian tribe as required under subsection (d), approval by the Secretary of a funding agreement providing for the assumption of the construction project shall be deemed to be an approval by the Secretary of the construction project planning and design documents.

''(2) REPORTS.—The Indian tribe shall provide the Secretary with construction project progress and financial reports not less than semiannually.

''(3) INSPECTIONS.—The Secretary may conduct onsite project inspections at a construction project semiannually or on an alternate schedule agreed to by the Secretary and the Indian tribe.

''(h) WAGES.—

''(1) IN GENERAL.—All laborers and mechanics employed by a contractor or subcontractor in the construction, alteration, or repair (including painting and decorating) of a building or other facility in connection with a construction project funded by the United States under this title shall be paid wages at not less than the amounts of wages prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code.

''(2) AUTHORITY.—With respect to construction, alteration, or repair work to which that subchapter is applicable under this subsection, the Secretary of Labor shall have the authority and functions specified in the Reorganization Plan numbered 14, of 1950.

''(3) APPLICABILITY OF SUBSECTION.—Notwithstanding any other provision of law, this subsection does not apply to any portion of a construction project carried out under this Act—

''(A) that is funded from a non-Federal source, regardless of whether the non-Federal funds are included with Federal funds for administrative convenience; or

''(B) that is performed by a laborer or mechanic employed directly by an Indian tribe or tribal organization.

''(4) APPLICABILITY OF TRIBAL LAW.—This subsection does not apply to a compact or funding agreement if the compact, self-determination contract, or funding agreement is otherwise covered by a law (including a regulation) adopted by an Indian tribe that requires the payment of not less than prevailing wages, as determined by the Indian tribe.

''(i) APPLICABILITY OF OTHER LAW.—Unless otherwise agreed to by the Indian tribe, no provision of the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), the Federal Acquisition Regulation, or any other law or regulation pertaining to Federal procurement (including Executive orders) shall apply to any construction program or project conducted under this title.

''SEC. 409. PAYMENT.

''(a) IN GENERAL.—At the request of the governing body of the Indian tribe and under the terms of a funding agreement, the Secretary shall provide funding to the Indian tribe to carry out the funding agreement.

''(b) ADVANCE ANNUAL PAYMENT.—At the option of the Indian tribe, a funding agreement shall provide for an advance annual payment to an Indian tribe.

''(c) AMOUNT.—Subject to subsection (e) and sections 405 and 406 of this title, the Secretary shall provide funds to the Indian tribe under a funding agreement for included programs in the amount that is equal to the amount that the Indian tribe would have been entitled to receive under contracts and grants under this Act (including amounts for direct program and contract support costs and, in addition, any funds that are specifically or functionally related to the provision by the Secretary of services and benefits to the Indian tribe or its members) without regard to the organization level within the Federal agency in which the included programs are carried out.

''(d) TIMING.—Unless the funding agreement provides otherwise, the transfer of funds shall be made not later than 10 days after the apportionment of funds by the Office of Management and Budget to the Department.

''(e) AVAILABILITY.—Funds for trust services to individual Indians shall be available under a funding agreement only to the extent that the same services that would have been provided by the Secretary are provided to individual Indians by the Indian tribe.

''(f) MULTIYEAR FUNDING.—A funding agreement may provide for multiyear funding.

''(g) LIMITATION ON AUTHORITY OF THE SECRETARY.—The Secretary shall not—

''(1) fail to transfer to an Indian tribe its full share of any central, headquarters, regional, area, or service unit office or other funds due under this Act, except as required by Federal law;

''(2) withhold any portion of such funds for transfer over a period of years; or

''(3) reduce the amount of funds required under this Act—

''(A) to make funding available for self-governance monitoring or administration by the Secretary;

''(B) in subsequent years, except as necessary as a result of—

''(i) a reduction in appropriations from the previous fiscal year for the program to be included in a compact or funding agreement;

''(ii) a congressional directive in legislation or an accompanying report;

''(iii) a tribal authorization;

''(iv) a change in the amount of pass-through funds subject to the terms of the funding agreement; or

''(v) completion of an activity under an included program for which the funds were provided;

''(C) to pay for Federal functions, including—

''(i) Federal pay costs;

''(ii) Federal employee retirement benefits;

''(iii) automated data processing;

''(iv) technical assistance; and

''(v) monitoring of activities under this Act; or

''(D) to pay for costs of Federal personnel displaced by self-determination contracts under this Act or self-governance.

''(h) FEDERAL RESOURCES.—If an Indian tribe elects to carry out a compact or funding agreement with the use of Federal personnel, Federal supplies (including supplies available from Federal warehouse facilities), Federal supply sources (including lodging, airline transportation, and other means of transportation including the use of interagency motor pool vehicles), or other Federal resources (including supplies, services, and resources available to the Secretary under any procurement contracts in which the Department is eligible to participate), the Secretary shall acquire and transfer such personnel, supplies, or resources to the Indian tribe.

''(i) PROMPT PAYMENT ACT.—Chapter 39 of title 31, United States Code, shall apply to the transfer of funds due under a compact or funding agreement authorized under this Act.

''(j) INTEREST OR OTHER INCOME.—

''(1) IN GENERAL.—An Indian tribe may retain interest or income earned on any funds paid under a compact or funding agreement to carry out governmental purposes.

''(2) NO EFFECT ON OTHER AMOUNTS.—The retention of interest or income under paragraph (1) shall not diminish the amount of funds that an Indian tribe is entitled to receive under a funding agreement in the year in which the interest or income is earned or in any subsequent fiscal year.

''(3) INVESTMENT STANDARD.—Funds transferred under this title shall be managed using the prudent investment standard.

''(k) CARRYOVER OF FUNDS.—

''(1) IN GENERAL.—Notwithstanding any provision of an Act of appropriation, all funds paid to an Indian tribe in accordance with a compact or funding agreement shall remain available until expended.

''(2) EFFECT OF CARRYOVER.—If an Indian tribe elects to carry over funding from 1 year to the next, the carryover shall not diminish the amount of funds that the Indian tribe is entitled to receive under a funding agreement in that fiscal year or any subsequent fiscal year.

''(l) LIMITATION OF COSTS.—

''(1) IN GENERAL.—An Indian tribe shall not be obligated to continue performance that requires an expenditure of funds in excess of the amount of funds transferred under a compact or funding agreement.

''(2) NOTICE OF INSUFFICIENCY.—If at any time an Indian tribe has reason to believe that the total amount provided for a specific activity under a compact or funding agreement is insufficient, the Indian tribe shall provide reasonable notice of the insufficiency to the Secretary.

''(3) SUSPENSION OF PERFORMANCE.—If the Secretary does not increase the amount of funds transferred under the funding agreement, the Indian tribe may suspend performance of the activity until such time as additional funds are transferred.

''SEC. 410. CIVIL ACTIONS.

''(a) INCLUSION AS CONTRACT.—Except as provided in subsection (b), for the purposes of section 110, the term 'contract' shall include a funding agreement.

''(b) CONTRACTS WITH PROFESSIONALS.—For the period during which a funding agreement is in effect, section 2103 of the Revised Statutes (25 U.S.C. 81), and section 16 of the Act of June 18, 1934 (25 U.S.C. 476) shall not apply to a contract between an attorney or other professional and an Indian tribe.

''SEC. 411. FACILITATION.

''(a) IN GENERAL.—Except as otherwise provided by law, the Secretary shall interpret each Federal law (including a regulation) in a manner that facilitates—

''(1) the inclusion of included programs in funding agreements; and

''(2) the implementation of funding agreements.

''(b) REGULATION WAIVER.—

''(1) REQUEST.—An Indian tribe may submit a written request for a waiver to the Secretary identifying the specific text in regulation sought to be waived and the basis for the request.

''(2) DETERMINATION BY THE SECRETARY.—Not later than 60 days after the date of receipt by the Secretary of a request under paragraph (1), the Secretary shall approve or deny the requested waiver in writing to the Indian tribe.

''(3) GROUND FOR DENIAL.—The Secretary may deny a request for a waiver only on a specific finding by the Secretary that the identified text in the regulation may not be waived because such a waiver is prohibited by Federal law.

''(4) FAILURE TO MAKE DETERMINATION.—If the Secretary fails to approve or deny a waiver request within the time required under paragraph (2), the Secretary shall be deemed to have approved the request.

''(5) FINALITY.—The Secretary's decision shall be final for the Department.

''SEC. 412. DISCLAIMERS.

''Nothing in this title expands or alters any statutory authority of the Secretary so as to authorize the Secretary to enter into any funding agreement under section 405(b)(2) or 415(c)(1)—

''(1) with respect to an inherent Federal function;

''(2) in a case in which the statute establishing a program does not authorize the type of participation sought by the Indian tribe (without regard to whether 1 or more Indian tribes are identified in the authorizing statute); or

''(3) limits or reduces in any way the services, contracts, or funds that any other Indian tribe or tribal organization is eligible to receive under section 102 or any other applicable Federal law.

''SEC. 413. APPLICABILITY OF OTHER PROVISIONS.

''(a) MANDATORY APPLICATION.—Sections 5(d), 6, 102(c), 104, 105(f), 110, and 111 apply to compacts and funding agreements under this title.

''(b) DISCRETIONARY APPLICATION.—

''(1) IN GENERAL.—At the option of a participating Indian tribe, any or all of the provisions of title I or title V shall be incorporated in a compact or funding agreement.

''(2) EFFECT.—Each incorporated provision—

''(A) shall have the same effect as if the provision were set out in full in this title; and

''(B) shall be deemed to supplement or replace any related provision in this title and to apply to any agency otherwise governed by this title.

''(3) EFFECTIVE DATE.—If an Indian tribe requests incorporation at the negotiation stage of a compact or funding agreement, the incorporation—

''(A) shall be effective immediately; and

''(B) shall control the negotiation and resulting compact and funding agreement.

''SEC. 414. BUDGET REQUEST.

''(a) REQUIREMENT OF ANNUAL BUDGET REQUEST.—

''(1) IN GENERAL.—The President shall identify in the annual budget request submitted to Congress under section 1105 of title 31, United States Code, all funds necessary to fully fund all funding agreements authorized under this title.

''(2) DUTY OF SECRETARY.— The Secretary shall ensure that there are included, in each budget request, requests for funds in amounts that are sufficient for planning and negotiation grants and sufficient to cover any shortfall in funding identified under subsection (b).

''(3) TIMING.—All funds included within funding agreements shall be provided to the Office of Self-Governance not later than 15 days after the date on which funds are apportioned to the Department.

''(4) DISTRIBUTION OF FUNDS.—The Office of Self-Governance shall be responsible for distribution of all funds provided under this title.

''(5) RULE OF CONSTRUCTION.—Nothing in this subsection authorizes the Secretary to reduce the amount of funds that an Indian tribe is otherwise entitled to receive under a funding agreement or other applicable law.

''(b) PRESENT FUNDING; SHORTFALLS.—In all budget requests, the President shall identify the level of need presently funded and any shortfall in funding (including direct program costs, tribal shares and contract support costs) for each Indian tribe, either directly by the Secretary of Interior, under self-determination contracts, or under compacts and funding agreements.

''SEC. 415. REPORTS.

''(a) IN GENERAL.—

''(1) REQUIREMENT.—On January 1 of each year, the Secretary shall submit to Congress a report regarding the administration of this title.

''(2) ANALYSIS.—A report under paragraph (1) shall include a detailed analysis of tribal unmet need for each Indian tribe, either directly by the Secretary, under self-determination contracts under title I, or under compacts and funding agreements authorized under this subchapter.

''(3) NO ADDITIONAL REPORTING REQUIREMENTS.—In preparing reports under paragraph (1), the Secretary may not impose any reporting requirement on participating Indian tribes not otherwise provided for by this Act.

''(b) CONTENTS.—A report under subsection (a) shall—

''(1) be compiled from information contained in funding agreements, annual audit reports, and data of the Secretary regarding the disposition of Federal funds;

''(2) identify—

''(A) the relative costs and benefits of self-governance;

''(B) with particularity, all funds that are specifically or functionally related to the provision by the Secretary of services and benefits to self-governance Indian tribes and members of Indian tribes;

''(C) the funds transferred to each Indian tribe and the corresponding reduction in the Federal bureaucracy;

''(D) the funding formula for individual tribal shares of all Central Office funds, with the comments of affected Indian tribes, developed under subsection (d); and

''(E) amounts expended in the preceding fiscal year to carry out inherent Federal functions, including an identification of inherent Federal functions by type and location;

''(3) contain a description of the methods used to determine the individual tribal share of funds controlled by all components of the Department (including funds assessed by any other Federal agency) for inclusion in compacts or funding agreements;

''(4) before being submitted to Congress, be distributed to the Indian tribes for comment (with a comment period of not less than 30 days); and

''(5) include the separate views and comments of each Indian tribe or tribal organization.

''(c) REPORT ON NON-BIA PROGRAMS.—

''(1) IN GENERAL.—In order to optimize opportunities for including non-Bureau of Indian Affairs included programs in agreements with Indian tribes participating in self-governance under this title, the Secretary shall—

''(A) review all included programs administered by the Department, other than through the Bureau of Indian Affairs, without regard to the agency or office concerned;

''(B) not later than January 1, 2004, submit to Congress—

''(i) a list of all such included programs that the Secretary determines, with the concurrence of Indian tribes participating in self-governance, are eligible to be included in a funding agreement at the request of a participating Indian tribe; and

''(ii) a list of all such included programs for which Indian tribes have requested to include in a funding agreement under section 405(b)(3) due to the special geographic, historical, or cultural significance to the Indian tribe, indicating whether each request was granted or denied and stating the grounds for any denial.

''(2) PROGRAMMATIC TARGETS.—The Secretary shall establish programmatic targets, after consultation with Indian tribes participating in self-governance, to encourage bureaus of the Department to ensure that a significant portion of those included programs are included in funding agreements.

''(3) PUBLICATION.—The lists and targets under paragraphs (1) and (2) shall be published in the Federal Register and be made available to any Indian tribe participating in self-governance.

''(4) ANNUAL REVIEW.—

''(A) IN GENERAL.—The Secretary shall annually review and publish in the Federal Register, after consultation with Indian tribes participating in self-governance, revised lists and programmatic targets.

''(B) CONTENTS.—The revised lists and programmatic targets shall include all included programs that were eligible for contracting in the original list published in the Federal Register in 1995, except for included programs specifically determined not to be contractible as a matter of law.

''(d) REPORT ON CENTRAL OFFICE FUNDS.—Not later than January 1, 2004, the Secretary shall, in consultation with Indian tribes, develop a funding formula to determine the individual tribal share of funds controlled by the Central Office of the Bureau of Indian Affairs for inclusion in the self-governance compacts.

''SEC. 416. REGULATIONS.

''(a) IN GENERAL.—

''(1) PROMULGATION.—Not later than 90 days after the date of the enactment of the Department of the Interior Tribal Self-Governance Act of 2003, the Secretary shall initiate procedures under subchapter III of chapter 5, of title 5, United States Code, to negotiate and promulgate such regulations as are necessary to carry out the amendments made by that Act.

''(2) PUBLICATION OF PROPOSED REGULATIONS.—Proposed regulations to implement the amendments shall be published in the Federal Register not later than 1 year after the date of enactment of that Act.

''(3) EXPIRATION OF AUTHORITY.—The authority to promulgate regulations under paragraph (1) shall expire on the date that is 18 months after the date of enactment of that Act.

''(b) COMMITTEE.—

''(1) MEMEBERSHIP.—A negotiated rulemaking committee established under section 565 of title 5, United States Code, to carry out this section shall have as its members only Federal and tribal government representatives.

''(2) LEAD AGENCY.— Among the Federal representatives, the Office of Self-Governance shall be the lead agency for the Department of the Interior.

''(c) ADAPTATION OF PROCEDURES.—The Secretary shall adapt the negotiated rulemaking procedures to the unique context of self-governance and the government-to-government relationship between the United States and Indian tribes.

''(d) EFFECT.—

''(1) REPEAL.—All regulatory provisions under part 1000 of title 25, Code of Federal Regulations, are repealed on the date of enactment of the Department of the Interior Tribal Self-Governance Act of 2003.

''(2) EFFECTIVENESS WITHOUT REGARD TO REGULATIONS.—The lack of promulgated regulations shall not limit the effect of this Act.

''(3) INTERIM PROVISION.—Notwithstanding this subsection, any regulation under part 1000 of title 25, Code of Federal Regulations,

shall remain in effect, at an Indian tribe's option, in implementing compacts until regulations are promulgated.

"SEC. 417. EFFECT OF CIRCULARS, POLICIES, MANUALS, GUIDANCES, AND RULES.

''Unless expressly agreed to by a participating Indian tribe in a compact or funding agreement, the participating Indian tribe shall not be subject to any agency circular, policy, manual, guidance, or rule adopted by the Department, except for—

''(1) the eligibility provisions of section 105(g); and

''(2) regulations promulgated under section 416.

"SEC. 418. APPEALS.

''In any administrative appeal or civil action for judicial review of any decision made by the Secretary under this title, the Secretary shall have the burden of proof of demonstrating by clear and convincing evidence—

''(1) the validity of the grounds for the decision; and

''(2) the consistency of the decision with the provisions and policies of this title.

"SEC. 419. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated such sums as are necessary to carry out this title.''.

S. 1716

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PHASE II STORM WATER PROGRAM IMPLEMENTATION AND MANAGEMENT.

Section 319(h) of the Federal Water Pollution Control Act (33 U.S.C. 1329(h)) is amended by adding at the end the following:

''(13) PHASE II STORM WATER IMPLEMENTATION.—A State may use funds from a grant provided under this subsection—

''(A) to carry out a project or activity relating to the development or implementation of phase II of the storm water program of the Environmental Protection Agency established by the final rule entitled 'National Pollutant Discharge Elimination System—Regulations for Revision of the Water Pollution Control Program Addressing Storm Water Discharges'', promulgated by the Administrator on December 8, 1999 (64 Fed. Reg. 68722); and

''(B) to implement a management program in a geographic jurisdiction for phase II of the program described in subparagraph (A).''.

By Mr. CHAFEE (for himself, Mr. BOND, and Mr. JEFFORDS):

S. 1716. A bill to amend the Federal Water Pollution Control Act to authorize the use of funds made available for nonpoint source management programs for projects and activities relating to the development and implementation of phase II of the storm water program of the Environmental Protection Agency; to the Committee on Environment and Public Works.

Mr. CHAFEE. Mr. President, I am pleased to be joined by my colleagues Senator BOND of Missouri and Senator JEFFORDS of Vermont in introducing legislation today that addresses an issue of great concern for our States and regions—the availability of Clean Water Act Section 319 funding for development and implementation of the Phase II Storm Water Program.

Stormwater runoff carries with it a host of contaminants as it runs over rooftops and lawns, parking lots and new construction sites, depositing nutrients, toxic metals, and sediments into downstream waterbodies. In many areas of the country, and particularly strongly urbanized areas, stormwater ranks high on the list of priority pollution sources impacting the water quality of our lakes, rivers, streams, and bays. As States proceed with development of the federally-mandated Phase II Storm Water Program to address critical stormwater runoff, the costs of implementing the requirements of the program are becoming a major concern for States and the municipalities.

At issue is whether funds provided to States through Section 319 of the Clean Water Act may be used for the purposes of developing and implementing the Environmental Protection Agency (EPA) Phase II Storm Water Rule that went into effect in March 2003. This issue is significant because the Phase II Program requires States to regulate stormwater discharges, which have historically been treated as nonpoint sources, as if they are point sources under the National Pollutant Discharge Elimination System (NPDES) Program. As a result, it is possible that federally-mandated State nonpoint source control programs, which have been funded by 319 monies in the past, may have to find new funding sources even as stormwater requirements are increased.

In recent years, the Environmental Protection Agency's Nonpoint Source Program has increasingly focused on impaired waters and stormwater-related concerns as the agency has moved toward a watershed-based approach. Although the Clean Water Act appears silent on the eligibility of Section 319 funding to address stormwater issues currently falling under the NPDES Program, EPA has thus far interpreted the Act to prohibit 319 funds from being used for implementation of the Phase II Storm Water Program. In recent months, a lack of clarity also exists on the use of Section 319 funding in geographic areas covered by the Phase II Program. Phase II applies to all populated areas of 1000 people or greater per square mile. In Rhode Island, nearly all of the state's impaired waters are included in Phase II areas. Given a strict EPA interpretation of the law, Section 319 funds could not be used in any of these areas.

Last year, the Senate approved and the President signed into law the Great Lakes and Lake Champlain Act of 2002 which contains a provision providing a one-year extension, during fiscal year 2003, for states to retain flexibility in using 319 funding for addressing their stormwater concerns. We are introducing legislation today that builds upon the fiscal year 2003 fix by providing permanent authority for states to use Section 319 monies for development and implementation of the Phase II Storm Water Program. Further, the legislation clarifies that 319 monies may be used in Phase II geographic jurisdictions.

The Phase II Storm Water Program is an important step toward protecting our Nation's waters from stormwater discharges, and striving for an integrated strategy in preventing, controlling, and reducing pollution entering our waterbodies. The legislation introduced today provides critical flexibility to States and municipalities as they continue to struggle financially with coming into compliance with the Phase II Program. I encourage my colleagues on the Environment and Public Works Committee, and in the Senate, to join us in expeditiously approving this important legislation. Thank you.

Mr. JEFFORDS. Mr. President, I rise before the Senate today to join my colleagues Senator CHAFEE and Senator BOND to introduce legislation to provide funding for storm water control and management. This legislation will ensure that smaller communities required to comply with the storm water phase II regulations will continue to have access to section 319 grant funds under the Clean Water Act.

The storm water phase II regulations went into effect on March 10, 2003. These regulations require that smaller communities required to obtain a National Pollutant Discharge Elimination System (NPDES) permit and implement best management practices to control storm water discharges and prevent water pollution. Existing EPA policy requires that once a community obtains an NPDES permit, it can no longer use section 319, non-point source funding. However, there are no dedicated, alternative funding sources available for storm water management. As smaller communities, like many of those in Vermont, are working hard to implement strong programs to control storm water runoff, it seems counter-intuitive to remove one of the main funding sources these communities use for this purpose.

During the 107th Congress, as Chairman of the Environment and Public Works Committee, I supported Senator CHAFEE's efforts to put in place a one-year fix to this problem, allowing section 319 funds to be used for storm water controls during fiscal year 2003. This one-year fix passed the EPW Committee, the full Senate, and the full House unanimously. I hope that we have the same level of support during the 108th Congress.

In our efforts to make our nation's water cleaner, non-point sources of pollution remain our next major hurdle. Storm water runoff is one area where we can make an immediate difference in the amount of pollution reaching our waters with an investment in best management practices and control techniques. We need to make more resources available to communities working hard to reduce the impact of storm water runoff on water quality. This legislation is step one of a long list of actions that I believe this Congress should take to make more resources available for storm water management.

By Mr. HATCH (for himself, Mr. BROWNBACK, Mr. SPECTER, and Mr. DODD):

S. 1717. A bill to amend the Public Health Service Act to establish a National Cord Blood Stem Cell Bank Network to prepare, store, and distribute human umbilical cord blood stem cells for the treatment of patients and to support peer-reviewed research using such cells; to the Committee on Health, Education, Labor, and Pensions.

Mr. HATCH. Mr. President, today, I am pleased to introduce the ''Cord Blood Stem Cell Act'' of 2003. I am particularly gratified that Senators BROWNBACK, SPECTER, and DODD have joined me as cosponsors of this bipartisan bill. The purpose of the Cord Blood Stem Cell Act is to create a network of qualified cord blood banking centers to prepare, store, and distribute human umbilical cord blood stem cells for the treatment of patients and to support research using such cells.

As my colleagues are aware, thousands of Americans receive and are saved by bone marrow transplants each year. But, thousands more die for lack of an appropriate donor. The good news is that for several years, experts from a few centers have collected and preserved the blood and stem cells from human placenta and umbilical cords. These cells can provide an alternative to bone marrow transplantation. For some patients, particularly those for whom a bone marrow match cannot be found, transplantation of these cells can be a life-saving therapy.

In some cases cord blood stem cell transplants provide an advantage relative to bone marrow transplants because they reduce risk to the donor, they are readily available, and they lower the risk of transplant complications. Cord blood stem cells also increase the success of transplantation from donors to recipients who are not fully matched, thus decreasing the difficulty of finding a fully matched donor.

Cord blood transplantation has been used successfully to treat leukemia, lymphoma, immunodeficiency diseases, sickle cell anemia, and several metabolic diseases. However, despite initial successes, not enough cord blood exists currently to meet the need. Currently, the number of cord blood stem cell units in the United States is insufficient to meet the need.

The bipartisan Cord Blood Stem Cell Act of 2003 proposes to establish an inventory of 150,000 cord blood stem cell units that reflects the diversity of the United States and will enable at least 90 percent of Americans to receive an appropriately matched cord blood stem cell transplant. The inventory would provide a critical resource for those in need of transplants and allocate a certain proportion of units to sustain further research on cord blood stem cells.

The National Cord Blood Stem Cell Network, administered by the Secretary of Health and Human services and a Board of Directors appointed by the Secretary, would be a system of qualified donor banks which will acquire, test, and preserve cord blood stem cells, educate and recruit donors, and make such cells available to transplant centers for stem cell transplantation. The Network would establish a National Cord Blood Stem Cell Registry, which would acquire and distribute donated units of cord blood, provide health care professionals with the ability to search the entire registry for a suitable donor match for patients and maintain a database to document the activities of the Network.

I ask unanimous consent that a brief section-by-section analysis of the National Cord Blood Stem Cell Act be printed in the RECORD.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

CORD BLOOD STEM CELL ACT OF 2003

Section 1—Short Title: Cord Blood Stem Cell Act of 2003

Section 2—National Cord Blood Stem Cell Bank Network:

Subsection (a): Sets fourth the definitions to be used for the purposes of this document.

Subsection (b): (1) In general—A national cord blood stem cell bank containing of 150,000 units will be established and provided for by qualified cord blood stem cell banks. (2) Purpose of donor banks—The banks will acquire tissue type, test, cryopreserve, and store donated cord blood stem cell units and make cord blood units available. Ten percent of this cord blood inventory will be allocated for research. (3) Eligibility of donor banks—In order to create an effective donor bank it must obtain all licenses, certifications, and registrations needed to operate. It must preform adequate screenings of the cord blood in order to eliminate transmission of disease and other harmful infections. Donor banks must uphold the utmost confidentiality to protect the patients and the donors under HIPAA. A donor bank must encourage an ethnically diverse population of cord blood stem cells. A donor bank must also develop an adequate system of communication for nationwide usage of cord blood stem cells, and educate the public on the advantages of donating and utilizing cord blood stem cells.

Subsection (c): Administration of the Network—Cord blood stem cell banks shall be run by a board of directors, including a chairman. Each member of the board of directors shall serve a 3-year term, and the board will be represented by various experienced people. Each year ⅓ of the board of directors' terms will expire.

There shall also be a National Cord Blood Stem Cell registry. The registry shall find appropriate cord blood for matched candidates; allow searches in the registry for a suitable donor for patients; and maintain a healthy, updated database.

The Database shall be confidential under HIPAA, and will be carefully monitored by the Secretary.

Subsection (d): Authorization of Appropriation—Authorizes $15 million for FY2004.

This is a therapy that can be life-saving for many Americans with diseases that can be treated by stem cell transplantation; particularly for many minorities and other Americans who are unable to find a matching bone marrow donor. I am pleased to introduce this bill that will save lives by providing Americans with the opportunity to receive a promising therapy.

Mr. DODD. Mr. President, I am pleased to join Senator HATCH, Senator BROWNBACK, and Senator SPECTER in introducing legislation to advance the use of umbilical cord blood for clinical applications and research. I first became aware of the potential therapeutic benefits of cord blood when my daughter was born 2 years ago. At that time, our doctor informed me and my wife that preserving a small amount of blood from the umbilical cord could prove enormously beneficial later in her life. Should she become ill with a disease requiring bone marrow reconstitution, he told us, her own cord blood stem cells could be used. This would eliminate the need to find a suitable bone marrow donor.

The bill that we are introducing today will begin a new national commitment to the development of this technology—which has the potential to reduce pain and suffering and save the lives of so many Americans afflicted with some of the most debilitating illnesses. Cord blood has already been used successfully in treating a number of diseases, including sickle cell anemia and certain childhood cancers. However, the use of cord blood is still fledgling. Recent developments have suggested that the stem cells derived from cord blood may be useful in treating a much wider range of diseases, such as Parkinson's disease, diabetes, and heart disease.

Like many Americans, I had never heard of cord blood before the birth of my daughter. It is not widely used—at least in this country. In the first 8 months of this year, 95 percent of all bone marrow reconstitutions were done using a bone marrow transplant. Only 5 percent used cord blood. This figure is surprising when we consider the potential benefits of cord blood relative to bone marrow.

First, it can be very difficult to find a suitable bone marrow donor. According to a General Accounting Office, GAO, report, of the 15,231 individuals needing bone marrow transplants between 1997 and 2000 who conducted a preliminary search of the National Bone Marrow Donor Registry, NBMDR, only 4,056 received a transplant—a 27-percent success rate. This number is even lower for minorities. Cord blood would not only produce an additional source of donation, it also does not require as exact a match as bone marrow.

In addition, cord blood is readily available. While it can take months between finding a bone marrow match and actually receiving a transplant, a unit of cord blood can be utilized in a matter of days or weeks. Cord blood also lowers the risk of complications of both the donor and the recipient. The need to extract bone marrow from the donor is eliminated, and the risk of infection or rejection by the recipient is significantly reduced. Finally, research has suggested that cord blood might produce better outcomes than bone marrow in children.

Why then, given all of these benefits, has the use of cord blood not become

much more prevalent in the United States? In Japan, where the use of cord blood in clinical settings is more advanced, nearly half of all transplants now use cord blood rather than bone marrow.

The relatively infrequent use of cord blood in our country is at least partly attributable to the lack of a national infrastructure for the matching and distribution of cord blood units. There are a handful of cord blood banks around the country doing excellent work, but there is a much more developed infrastructure for bone marrow. This is thanks to legislation passed by Congress in 1986 that established a National Registry for bone marrow. By the way, that legislation is due to be reauthorized next year—and I would like to voice my strong support for that reauthorization.

Our bill would create a similar infrastructure for cord blood. Specifically, it would direct the Secretary of Health and Human Services, HHS, acting through the Administrator of the Health Resources and Services Administration, HRSA, to establish a National Cord Blood Stem Cell Bank Network, as well as a registry of available cord blood units. The network and registry would be required to collect a minimum of 150,000 units, which should be sufficient to provide a suitable match for 90 percent of the U.S. population.

Donor banks would also be required to educate the general public about the potential benefits of cord blood, and encourage an ethnically diverse population of cord blood donors. Given the untapped potential of cord blood, at least 10 percent of the available units must also be made available for research. Finally, the legislation authorizes an appropriation of $15 million for fiscal year 2004, and such sums as may be necessary for fiscal years 2005 through 2008.

Mr. President, before finishing today I would like to make it clear that I strongly support the continuation of the excellent work done by the National Marrow Donor Program (NMDP). Cord blood should act as a complement to—not a replacement for—bone marrow. In many cases, a bone marrow transplant is still the preferred therapy. Physicians should have the ability to decide on a case-by-case basis which is best for their patients. That is why I am hopeful that the NMDP will have a very active role in designing and supporting the National Cord Blood Stem Cell Network and Registry. Ideally, the two will work together to provide a single resource where doctors can search both cord blood stockpiles and a list of marrow donors for a suitable match for their patients.

I firmly believe that the creation of a national infrastructure for cord blood will, in time, save the lives of thousands of gravely ill Americans. We have a responsibility to encourage use of cord blood where appropriate today, and invest in research to fully tap the potential of this technology. I urge my colleagues to support this legislation.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 239—DESIGNATING NOVEMBER 7, 2003, AS ''NATIONAL NATIVE AMERICAN VETERANS DAY'' TO HONOR THE SERVICE OF NATIVE AMERICANS IN THE UNITED STATES ARMED FORCES AND THE CONTRIBUTION OF NATIVE AMERICANS TO THE DEFENSE OF THE UNITED STATES

Mr. CAMPBELL (for himself, Mr. INOUYE, Mr. BINGAMAN, Mr. JOHNSON, Mr. THOMAS, and Mr. MCCAIN) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 239

Whereas Native Americans have served with honor and distinction in the United States Armed Forces and defended the United States of America for more than 200 years;

Whereas Native Americans have served in wars involving the United States from Valley Forge to the 2003 hostilities in Afghanistan and Iraq;

Whereas Native Americans have served in the Armed Forces with the highest record of military service of any group in the United States;

Whereas the courage, determination, and fighting spirit of Native Americans have strengthened and continue to strengthen the United States, including the United States Armed Forces;

Whereas Native Americans have made the ultimate sacrifice in defense of the United States, even in times when Native Americans were not citizens of the United States;

Whereas the establishment of a National Native American Veterans Day will honor the continuing service and sacrifice of Native Americans in the United States Armed Forces; and

Whereas November 7th, a date that falls within the traditional observance of Native American Indian Heritage Month, would be an appropriate day to establish a National Native American Veterans Day: Now, therefore, be it

Resolved, That the Senate—

(1) honors the service of Native Americans in the United States Armed Forces and the contribution of Native Americans to the defense of the United States;

(2) designates November 7, 2003, as ''National Native American Veterans Day'';

(3) encourages all people in the United States to learn about the history of the service of Native Americans in the Armed Forces; and

(4) requests that the President issue a proclamation calling on the people of the United States to observe the day with appropriate programs, ceremonies, and activities to demonstrate support for Native American veterans.

Mr. CAMPBELL. Mr. President, I am pleased to be joined by Senators INOUYE, BINGAMAN, JOHNSON, and THOMAS in submitting a resolution to honor Native American Indian veterans for their service in the Armed Forces of the United States and to designate November 7, 2003 as ''National Native American Veterans Day''.

As the events of conflict in Iraq continue we all hope and pray for the safe return of the men and women who are overseas, far from home protecting our nation and others.

Native Americans have fought in wars and conflicts that date back to the days before the Revolution and fought alongside the colonists during the Revolutionary war.

Native people continued the call by enlisting in the armed services of the United States to fight in the many conflicts of our past including the War of 1812, the Civil War, and the Spanish-American war in 1898.

In 1868, the U.S. Army established the Indian scouts to utilize their special skill of scouting the enemy. Theodore Roosevelt recruited Native Americans to be part of his famous Rough Riders. This is probably a little known fact.

Within the last century, approximately 12,000 Native Americans served in World War I, 44,000 in World War II and the Korean War, 42,000 in the Vietnam war, and at the end of the 20th century there were nearly 190,000 Native American Indian men and women serving in the military.

At the same time, few people know that American Indians were not made citizens until Congress enacted the Indian Citizenship Act in 1924.

In 2001, I was honored to take part in ceremonies awarding the Congressional gold medal to the Navajo Code Talkers who made such a great contribution to the war efforts in the Pacific during World War II. At a time when the Japanese were breaking the codes developed by American intelligence, the Code Talkers made use of the Navajo language to confound the enemy and communicate military strategy and positions without compromise. Of all the codes developed in World War II, the Navajo language code was the only one not broken during World War II.

The Code Talkers story is not the only one worthy of recognition. Only recently was it rediscovered that an Oneida woman, Tyonajanegen, fought alongside her husband, an American army officer, during the American Revolution. Sacajawea, a Shoshone woman, guided and served as an interpreter for Lewis and Clark during their expedition. Native women also served in the Spanish American War and World War I as military nurses. Approximately 800 Native women served in World War II. They continued to answer the call throughout the military campaigns of the Korean War, the Vietnam War, Operations Desert Shield and, recently, Desert Storm.

We also honor the memory of Lori Piestewa, a Hopi woman, who fought valiantly and bravely to protect her fellows during the invasion of Iraq. Just as we cheered when Jessica Lynch was rescued and returned home, all Americans were saddened to learn of Lori Piestewa's fate.

Some warriors served this country valiantly, yet fell, not by a bullet, but

by a broken heart. Ira Hayes is one such man. He was a Pima Indian from the Gila River Indian Reservation in Arizona. He eventually died a broken man, a victim of alcoholism and despair but to me will forever be known as an American hero who will forever be known as one of the Marines who raised the American flag with five others atop Mount Suribachi after taking the island of Iwo Jima from the Japanese.

Indian people have special admiration and respect for our veterans. They pray for ones still in battle, alongside their fellow Americans, so that they can have a safe journey back to their loving homes and families. They pray for the ones who have fought, and now, continue their journey through life's struggles.

I urge my colleagues to join me in supporting this resolution.

SENATE RESOLUTION 240—DESIGNATING NOVEMBER 2003 AS ''NATIONAL AMERICAN INDIAN HERITAGE MONTH''

Mr. CAMPBELL (for himself, Mr. INOUYE, Mr. DORGAN, Mr. BINGAMAN, Mr. JOHNSON, Mr. DOMENICI, Mr. MCCAIN, Mr. THOMAS, and Mr. HATCH) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 240

Whereas American Indians and Alaska Natives were the original inhabitants of the land that now constitutes the United States;

Whereas American Indians and Alaska Natives have traditionally exhibited a respect for the finiteness of natural resources through a reverence for the Earth;

Whereas American Indians and Alaska Natives have served with valor in all of the wars of the United States, beginning with the Revolutionary War and continuing through the conflict in Iraq, and the percentage of Native Americans serving in the United States armed services has significantly exceeded the percentage of Native people in the population of the United States as a whole;

Whereas American Indians and Alaska Natives have made distinct and important contributions to the world in many fields, including agriculture, medicine, music, language, and the arts;

Whereas American Indians and Alaska Natives should be recognized for their contributions to the United States, including as local and national leaders, artists, athletes, and scholars;

Whereas such recognition will encourage self-esteem, pride, and self-awareness in American Indians and Alaska Natives of all ages; and

Whereas November is a month during which many Americans commemorate a special time in the history of the United States, when American Indians and English settlers celebrated the bounty of their harvest and the promise of new kinships: Now, therefore, be it

Resolved, That the Senate—

(1) designates November 2003 as ''National American Indian Heritage Month''; and

(2) requests that the President issue a proclamation calling on the Federal Government and State and local governments, interested groups and organizations, and the people of the United States to observe the month with appropriate programs, ceremonies, and activities.

Mr. CAMPBELL. Mr. President, today I am pleased to be joined by Senators INOUYE, DORGAN, BINGAMAN, JOHNSON, DOMENICI, MCCAIN, THOMAS and HATCH in submitting a resolution to recognize the many contributions American Indians and Alaska Natives have made to our great Nation and to designate November, 2003, as ''National American Indian Heritage Month'' as Congress has done for nearly a decade.

Native people have left an indelible imprint on many aspects of our everyday life that most Americans take for granted. The arts, education, science, the armed forces, medicine, industry, and government are a few of the areas that have been influenced by American Indian and Alaska Native people over the last 500 years.

In the medical field, many of the healing remedies that we use today derive from practices used first by Native people hundreds of years before we incorporated them into western medicine.

Native people revere the natural environment, have great respect for elders and veterans, and cherish the family which is the center of Indian life and culture. These values are deeply rooted, strongly embraced and thrive with generation after generation of Native people.

From the difficult days of Valley Forge through our peace keeping efforts around the world today, American Indian and Alaska Native people have proudly served and dedicated their lives in the military readiness and defense of our country in wartime and in peace. It is a fact that on a per capita basis, Native participation rate in the armed Forces outstrips the rates of all other groups in the Nation.

Many Native men and women have made the ultimate sacrifice in defending the Nation, some before they were granted citizenship in 1924.

Many of the words in our language have been borrowed from Native languages, including many of the names of the rivers, cities, and States across America. Indian arts and crafts have also made a distinct impression on our heritage.

By designating November 2003, as ''National American Indian Heritage Month'' we will continue to encourage self-esteem, pride, and self-awareness among American Indians and Alaska Natives of all ages and remind all Americans of the contributions of the Native people of this great land.

SENATE RESOLUTION 241—EXPRESSING THE SENSE OF THE SENATE REGARDING THE PALESTINIAN AUTHORITY

Mr. GRAHAM of South Carolina submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 241

Whereas the Palestinian people have a right to live in peace with the Israeli people in a free and independent Palestinian state;

Whereas the leadership of both these peoples must be committed to moving the peace process forward;

Whereas violence undermines the establishment of a free and independent Palestinian state;

Whereas violence in Israel and the occupied territories effects the stability of the entire region;

Whereas Yasser Arafat has taken insufficient action as Chairman of the Palestinian Authority to reduce violence and terrorist acts;

Whereas Chairman Arafat has established ties to those responsible for the violence;

Whereas high level officials in Chairman Arafat's administration and Chairman Arafat himself have illegally imported weapons and, according to the Department of State, sponsored a ship bringing more than 50 tons of weapons, including rockets, explosives, and assault rifles, to the Palestinian Authority;

Whereas Chairman Arafat's administration is demonstrably corrupt, as proven by the findings of the International Monetary Fund with respect to the actions of Chairman Arafat to redirect $900,000,000 in government revenue to private bank accounts between 1995 and 2000;

Whereas the Palestinian Authority supports Hamas, an organization that is committed to the destruction of the state of Israel, and which threatens in its Covenant that ''Israel will exist and will continue to exist until Islam will obliterate it, just as it obliterated others before it'';

Whereas the Palestinian Authority has supported Hamas and Islamic Jihad;

Whereas Chairman Arafat consistently refuses to accept a two-state solution to the violence between Israelis and Palestinians;

Whereas the Palestinian people need a strong leader capable of controlling militant groups; and

Whereas the Palestinian people need a strong leader committed to negotiating a peace for them and their neighbors: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) Chairman Yasser Arafat is not an agent for peace, and the United States should not continue dialogue with Chairman Arafat regarding the establishment of a peace between Israelis and Palestinians; and

(2) the United States should consider reducing future financial assistance to the Palestinian Authority if the Palestinian Authority continues to fail to control groups like Hamas and Islamic Jihad whose goal is to destroy both Israel and the peace process.

SENATE RESOLUTION 242—TO EXPRESS THE SENSE OF THE SENATE CONCERNING THE DO-NOT-CALL REGISTRY

Ms. MURKOWSKI submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 242

Whereas on September 25, 2003, the United States District Court for the District of Colorado decided the case of Mainstream Marketing Services, Inc. v. Federal Trade Commission, 2003 U.S. Dist. LEXIS 16807;

Whereas the case considered the constitutionality of the amended telemarketing sales rules promulgated by the Federal Trade Commission, which established a do-not-call registry;

Whereas the district judge held that the do-not-call registry violated the First Amendment free speech rights of telemarketers and was therefore unconstitutional;

Whereas on September 25, 2003, Congress passed legislation reaffirming the authority of the Federal Trade Commission to establish the do-not-call registry;

Whereas over 50,000,000 telephone consumers have signed up for the do-not-call registry, which was to go into effect on October 1, 2003; and

Whereas the people of the United States have the right to protect the privacy of their homes from unsolicited commercial telemarketing calls: Now, therefore, be it

Resolved, That the Senate—

(1) strongly disapproves of the decision of the United States District Court in Mainstream Marketing Services, Inc. v. Federal Trade Commission; and

(2) directs the Senate Legal Counsel—

(A) to intervene in any case brought to defend the constitutionality of the do-not-call registry; or

(B) if unable to intervene, to file an amicus curiae brief in support of the constitutionality of the do-not-call registry.

Ms. MURKOWSKI. Mr. President, I come to the floor today to address yet another misguided judicial action that is threatening again to prevent the ''Do-Not-Call Registry'' from going into effect on Wednesday, October 1. This body just last week addressed the misguided application of the law from a Federal Court in Oklahoma.

Not 48 hours had passed before the lawyers for the telemarketers found another judge to halt the implementation of that program—this time on constitutional grounds.

The U.S. District Court for the District of Colorado in Mainstream Marketing Services, Inc., et. al. v. Federal Trade Commission, last Friday held that the FTC ''Do-Not-Call Registry violated the Right of Free Speech provisions of the United States Constitution.

How many times must this body speak before the courts will listen?

Americans are outraged that their right to privacy can be invaded every night while they try to eat dinner with their families. Our lives are busy enough throughout the day with work and school, after school activities and preparing for the next day. To have a little quiet time at dinner is not too much to ask, yet these telemarketing companies now feel it is their right to disturb our few moments of family solitude.

In the first case they brought against the regulations they argued lack of authority. Now they argue lack of constitutional support. What is next, lack of ability to abide by what the Administration, Congress and the American people are clamoring for?

Those who seek to stop the implementation of this program assert they are protected by a right of free speech. Therein lies the problem.

The commercial speech that the telemarketers seek to preserve is not held to the same standard under the First Amendment as individual right of speech. Further, the FTC regulations are not arbitrary and capricious because the FTC considered the comments of thousands of people and clearly made findings justifying their regulations.

Now, Congress has subsequently acted to establish in law the authority for the FTC to say that telemarketers do not enjoy a free rein into our homes by using the telephone.

I say it is the people who have the right to decide they do not want to be hounded by telemarketers and those who would interrupt the sanctity of their homes.

The U.S. Supreme Court has found that one aspect of residential privacy is the right to avoid unwanted communications. The Supreme Court also has repeatedly held that individuals are not required to welcome unwanted speech into their homes and that the government may protect this freedom.

The entire purpose of the FTC's ''Do No Call Registry'' program is to allow Americans to opt-out of receiving these annoying phone calls. In my judgment the court's decision to stop this program tilts our privacy rights out of balance in favor of these telemarketing companies.

As we heard repeatedly on the Senate floor last week, in just the few short months since the FTC adopted these rules nearly 50 million people have registered to stop these harassing phone calls.

Alaskans were looking forward to the implementation of this FTC rule to give them the peace and quiet they have sought for so long. We need this FTC rule to protect our citizens and their privacy.

Americans and Congress have spoken. People do not like to be disturbed by unwanted and harassing phone calls from people selling products over the phone. The Administration listened to the cries of Americans. Congress listened to the cries of Americans. Now the courts must respect the choice of the people by allowing this rule to go into effect.

Unfortunately, the most recent court opinion on this issue shows yet again that the justice system in America is broken and badly in need of repair.

The resolution that I submit today is different from what the Senate voted on last week. This resolution states that it is the sense of the United States Senate that the court's judgment in this most recent case was in error.

The Resolution further authorizes the Senate Legal Counsel to intervene in this most recent case to assert the constitutionality of the ''Do-Not-Call Registry,'' or if it is unable to intervene, to file an amicus curiae brief in support of the constitutionality of the do-not-call registry.

Once again I ask this body: How many times must we speak before the courts will let this rule go into effect? Hopefully the courts will pay attention today.

I am proud to submit this resolution and I hope this body will act quickly on this measure to send yet another message to our courts that the privacy of our homes cannot be invaded.

SENATE CONCURRENT RESOLUTION 72—COMMEMORATING THE 60TH ANNIVERSARY OF THE ESTABLISHMENT OF THE UNITED STATES CADET NURSE CORPS AND VOICING THE APPRECIATION OF CONGRESS REGARDING THE SERVICE OF THE MEMBERS OF THE UNITED STATES CADET NURSE CORPS DURING WORLD WAR II

Mr. DASCHLE submitted the following concurrent resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. CON. RES. 72

Whereas the United States experienced an extreme shortage of nurses and medical personnel during World War II, and this shortage was filled in part by the 180,000 women of the United States Cadet Nurse Corps;

Whereas the United States Cadet Nurse Corps was under the jurisdiction of the Public Health Service, a branch of the uniformed services of the United States;

Whereas the United States Cadet Nurse Corps was established pursuant to the Act of June 15, 1943 (Chapter 126; 57 Stat. 153), commonly known as the Bolton Act in honor of Congresswoman Frances Payne Bolton who introduced the legislation;

Whereas the members of the United States Cadet Nurse Corps were required to undergo training that involved 12-hour days in hospitals followed by classes, with specific standards for admission into the Corps;

Whereas the members of the United States Cadet Nurse Corps made a pledge upon entrance into their post to be available for military, governmental, or essential civilian services for the duration of World War II;

Whereas the members of the United States Cadet Nurse Corps wore uniforms with patches certified by the Secretary of the Army and served under the authority of commissioned officers;

Whereas members of the United States Cadet Nurse Corps were charged with the reception of sick and wounded members of the Armed Forces and performed other duties in promotion of the public interest in connection with military operations;

Whereas the United States Cadet Nurse Corps was responsible for saving civilian hospital nursing services by providing 80 percent of the nursing staff for civilian hospitals during World War II;

Whereas some members of the United States Cadet Nurse Corps left their families and served all across the Nation in various hospitals, occasionally substituting for doctors; and

Whereas the United States Cadet Nurse Corps remains unrecognized as a military organization and its members remain unrecognized as veterans of the United States Army: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) recognizes the members of the United States Cadet Nurse Corps for their patriotism and civic activism in a time of emergency during World War II; and

(2) honors the 60th Anniversary of the creation of the United States Cadet Nurse Corps.

Mr. DASCHLE. Mr. President, today I am submitting a concurrent resolution to honor a special group of women

who served their Nation during World War II, veterans of the Cadet Nurse Corps.

During World War II, 250,000 nurses were sent to the front lines to care for Allied troops. By 1942, there was such a shortage of civilian nurses in the United States that many immunizations were cancelled and hundreds of clinics were closed. An alarmingly high number of babies were being delivered at home, without the assistance of medical professionals, and some hospitals were forced to shut wards.

To alleviate this shortage, nearly 180,000 young women answered the call of government recruiters to join the Cadet Nurse Corps. These young women staffed domestic hospital wards while the overseas nurses cared for wounded troops on the front lines. The Cadet Nurses comprised nearly 80 percent of the nursing staff for civilian hospitals during World War II, and, without their service, our Nation could not have afforded to make such a tremendous commitment to providing medical attention to our troops overseas.

Recently, a number of former Cadet Nurses who trained at St. Luke's Hospital in Aberdeen, SD, gathered for a reunion. This year, as you may know, marks the 60th anniversary of the establishment of the Cadet Nurse Corps. The reunion drew about a dozen former members of the Corps, including several who now live out of State.

Among the participants was Esther Roesch Buechler, and her story provides insight into what it was like to serve as a Cadet Nurse.

Esther, now 78 years old, grew up in Roscoe, a small community in north-central South Dakota. She was born with a number of medical problems that have inspired her to help others in need. With great support from her father, she was determined to devote her life to medical care. Upon her graduation from high school in 1943, Esther joined the Cadet Nurse Corps. Assigned to St. Luke's, she recalls long, arduous hours at a clinic whose nursing staff had been decimated by the war. Later in her training, she was sent to the VA nursing home in Des Moines, Iowa, where she treated World War I veterans, as well as new veterans from the World War II campaign. Following her Cadet Nurse Corps experience, Esther served in various hospitals for nearly 10 years before she retired to raise her children. And she passed her commitment to medical service on to her children—her oldest son currently works as a paramedic.

Cadet Nurses like Esther were an essential part of our military force. They were members of the Public Health Service, one of our Nation's seven uniformed services. They served under the authority of commissioned officers, wearing patches certified by the Secretary of the Army. And they treated the injuries of troops returning home from the war front. Despite their dedicated service to our Nation, it is unfortunate that the Department of Defense has elected to block efforts to recognize these women as military veterans.

During the existence of the Cadet Nurse Corps, more than 124,000 Cadet Nurses graduated from 1,125 schools operating nurse training programs around the country. Without the Cadet Nurses, our battlefield medical services, as well as our health care here at home, could not have carried on with the same proficiency. For their tremendous service to our nation, I salute the Cadet Nurse Corps, and I ask you to join with me in supporting this resolution honoring their patriotism.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1825. Mr. BOND (for himself, Ms. MIKULSKI, Mr. DORGAN, and Mr. JEFFORDS) proposed an amendment to the bill S. 1689, making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes.

SA 1826. Mr. DORGAN (for himself and Ms. LANDRIEU) proposed an amendment to the bill S. 1689, supra.

SA 1827. Mr. FRIST (for Mr. FEINGOLD) proposed an amendment to the bill S. 1642, to extend the duration of the immigrant investor regional center pilot program for 5 additional years, and for other purposes.

CORRECTED TEXT OF AMENDMENTS—October 2, 2003

SA 1819. Mr. BYRD (for himself and Mr. DURBIN) submitted an amendment intended to be proposed by him to the bill S. 1689, making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes; as follows:

At the appropriate place in Title III, insert the following:

SEC. ___.

(a) None of the funds under the heading Iraq Relief and Reconstruction Fund may be used for: a Facilities Protection Service Professional Standards and Training Program; any amount in excess of $50,000,000 for completion of irrigation and drainage systems; construction of water supply dams; any amount in excess of $25,000,000 for the construction of regulators for the Hawizeh Marsh; any amount in excess of $50,000,000 for a witness protection program; Postal Information Technology Architecture and Systems, including establishment of ZIP codes; civil aviation infrastructure cosmetics, such as parking lots, escalators and glass; museums and memorials; wireless fidelity networks for the Iraqi Telephone Postal Company; any amount in excess of $50,000,000 for construction of housing units; any amount in excess of $100,000,000 for an American-Iraqi Enterprise Fund; any amount in excess of $75,000,000 for expanding a network of employment centers, for on-the-job training, for computer literacy training, English as a Second Language or for Vocational Training Institutes or catch-up business training; any amount in excess of $782,500,000 for the purchase of petroleum product imports.

(b) Notwithstanding any other provision of this Act, amounts made available under the heading Iraq Relief and Reconstruction Fund shall be reduced by $600,000,000.

(c) In addition to the amounts otherwise made available in this Act, $600,000,000 shall be made available for Operation and Maintenance, Army: *Provided*, That these funds are available only for the purpose of securing and destroying conventional munitions in Iraq, such as bombs, bomb materials, small arms, rocket propelled grenades, and shoulder-launched missiles.

TEXT OF AMENDMENTS

SA 1825. Mr. BOND (for himself, Ms. MIKULSKI, Mr. DORGAN, and Mr. JEFFORDS) proposed an amendment to the bill S. 1689, making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes; as follows:

At the appropriate place, insert the following:

DEPARTMENT OF VETERANS AFFAIRS
VETERANS HEALTH ADMINISTRATION
MEDICAL CARE

For an additional amount for medical care and related activities under this heading for fiscal year 2004, $1,300,000,000, to remain available until September 30, 2005.

SA 1826. Mr. DORGAN (for himself and Ms. LANDRIEU) proposed an amendment to the bill S. 1689, making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes; as follows:

Beginning on page 25, strike line 5, and all that follows through page 28, line 15, and insert the following:

FINANCING OF RECONSTRUCTION

The President shall direct the head of the Coalition Provisional Authority in Iraq, in coordination with the Governing Council of Iraq or a successor governing authority in Iraq, to establish an Iraq Reconstruction Finance Authority. The purpose of the Authority shall be to obtain financing for the reconstruction of the infrastructure in Iraq by collateralizing the revenue from future sales of oil extracted in Iraq. The Authority shall obtain financing for the reconstruction of the infrastructure in Iraq through—

(1)(A) issuing securities or other financial instruments; or

(B) obtaining loans on the open market from private banks or international financial institutions; and

(2) to the maximum extent possible, securitizing or collateralizing such securities, instruments, or loans with the revenue from the future sales of oil extracted in Iraq.

SA 1827. Mr. FRIST (for Mr. FEINGOLD) proposed an amendment to the bill S. 1642, to extend the duration of the immigrant investor regional center pilot program for 5 additional years, and for other purposes; as follows:

At the end, add the following:

SEC. 2. GAO STUDY.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the General Accounting Office shall report to Congress on the immigrant investor program created under section 203(b)(5) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(5)).

(b) CONTENTS.—The report described in subsection (a) shall include information regarding—

(1) the number of immigrant investors that have received visas under the immigrant investor program in each year since the inception of the program;

(2) the country of origin of the immigrant investors;

(3) the localities where the immigrant investors are settling and whether those investors generally remain in the localities where they initially settle;

(4) the number of immigrant investors that have sought to become citizens of the United States;

(5) the types of commercial enterprises that the immigrant investors have established; and

(6) the types and number of jobs created by the immigrant investors.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Friday, October 3, 2003, at 9:30 a.m., in closed session, to receive a briefing on the interim report on Iraq's weapons of mass destruction programs.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on today's Executive Calendar: Calendar Nos. 147, 308, 343, 354, 363, 379, 387, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 403, 404, and all nominations on the Secretary's desk. I further ask unanimous consent that the nominations be confirmed; that the motions to reconsider be laid upon the table; that the President be immediately notified of the Senate's action; and that the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

INTERNATIONAL JOINT COMMISSION, UNITED STATES AND CANADA

Dennis L. Schornack, of Michigan, to be Commissioner on the part of the United States on the International Joint Commission, United States and Canada.

DEPARTMENT OF JUSTICE

Jack Landman Goldsmith III, of Virginia, to be an Assistant Attorney General.

DEPARTMENT OF HOMELAND SECURITY

Penrose C. Albright, of Virginia, to be an Assistant Secretary of Homeland Security. (New Position)

DEPARTMENT OF JUSTICE

Daniel J. Bryant, of Virginia, to be an Assistant Attorney General.

DEPARTMENT OF ENERGY

Rick A. Dearborn, of Oklahoma, to be an Assistant Secretary of Energy (Congressional and Intergovernmental Affairs).

DEPARTMENT OF JUSTICE

Mauricio J. Tamargo, of Florida, to be Chairman of the Foreign Claims Settlement Commission of the United States for a term expiring September 30, 2006. (Reappointment)

John Francis Bardelli, of Connecticut, to be United States Marshal for the District of Connecticut for the term of four years, vice John R. O'Connor.

DEPARTMENT OF STATE

Richard Eugene Hoagland, of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Tajikistan.

Pamela P. Willeford, of Texas, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Switzerland, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Principality of Liechtenstein.

James Casey Kenny, of Illinois, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Ireland.

Randall L. Tobias, of Indiana, to be Coordinator of United States Government Activities to Combat HIV/AIDS Globally, with the rank of Ambassador.

W. Robert Pearson, of Tennessee, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Director General of the Foreign Service.

William Cabaniss, of Alabama, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Czech Republic.

David L. Lyon, of California, a Career Member of the Senior Foreign Service, to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to be Ambassador to the Republic of Kiribati.

Roderick R. Paige, of Texas, to be a Representative of the United States of America to the Thirty-second Session of the General Conference of the United Nations Educational, Scientific, and Cultural Organization.

H. Douglas Barclay, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of El Salvador.

Robert B. Charles, of Maryland, to be an Assistant Secretary of State (International Narcotics and Law Enforcement Affairs).

DEPARTMENT OF JUSTICE

Karin J. Immergut, of Oregon, to be United States Attorney for the District of Oregon for the term of four years.

DEPARTMENT OF HOMELAND SECURITY

C. Suzanne Mencer, of Colorado, to be the Director of the Office for Domestic Preparedness, Department of Homeland Security. (New Position)

NOMINATIONS PLACED ON THE SECRETARY'S DESK

FOREIGN SERVICE

PN356–3 Foreign Service nomination of Pamela A. White, which was received by the Senate and appeared in the Congressional Record of February 25, 2003.

NOMINATION OF JACK LANDMAN GOLDSMITH III

Mr. LEAHY. Mr. President, we voted today on the nomination of Prof. Jack Goldsmith to head the Office of Legal Counsel at the Department of Justice. I have serious reservations about Professor Goldsmith's nomination. In particular, I am concerned about his positions as they relate to the international protection of human rights, the engagement of the United States in holding accountable those who commit crimes against humanity, the administration's use of military tribunals and, more broadly, our Nation's place in the global community.

Professor Goldsmith is a leading opponent of the use of the Alien Tort Claims Act, ATCA. For the past 23 years, judges have interpreted the ATCA to allow victims of torture and abuse to file claims in United States courts against foreign governments, torturers, and multinational corporations. Victims have used the act to bring claims against notorious violators of human rights, such as war criminal Radovan Karadzic, the former prime minister of the Philippines, Ferdinand Marcos, and the banks and companies that profited from Nazi war crimes. Professor Goldsmith's opposition to the use of ATCA reflects a disturbing shift away from international efforts to hold human rights abusers responsible for their inhumane treatment of innocent victims throughout the world.

Professor Goldsmith is also a vocal opponent of the International Criminal Court, ICC. Over the past few months, the ICC has taken steps toward becoming an effective tool to hold accountable those accused of war crimes, genocide, and crimes against humanity. Yet Professor Goldsmith has dismissed the Court as ''futile'' and ''unrealistic.'' Many believe that the ICC is the best forum to bring the world's worst criminals to justice, but Professor Goldsmith has predicted that it is headed for the grave: I am hopeful that the United States can one day play a key role in ensuring that the ICC effectively carries out its historic mandate, and I worry that Professor Goldsmith has not demonstrated a commitment to leading the administration in this important direction.

Professor Goldsmith also vigorously defended the President's authority to try suspected terrorists by military tribunal, despite the concerns raised by many Americans and our allies about the legality of these practices. Legitimate questions have been raised about the administration's inconsistency in bringing some cases in federal court while referring other similar cases to military tribunals, where the defendants' rights are fewer and the procedures less clear. I urge Professor Goldsmith to take a hard look at the administration's recent treatment of prisoners of war: I fear it may have negative implications for the treatment of our own citizens abroad.

Professor Goldsmith's positions on ATCA, the ICC, and military tribunals reflect a broader, disturbing trend in his thinking, scholarship and writings. At a time when the United States should be increasing our engagement in the international community, I am concerned that Professor Goldsmith will advocate for less engagement. At a time when the United States should be increasing our global cooperation in areas such as the war on terrorism, the environment, and international peace and security, I am concerned that Professor Goldsmith will advocate for less cooperation. At a time when the United States should be reaffirming

our commitment to protecting individual liberties, due process rights, and access to equal justice, I am concerned that Professor Goldsmith lacks a true commitment to these foundations of our democracy.

I am also alarmed by the veil of secrecy that has been drawn by Attorney General Ashcroft over the operations of the Office of Legal Counsel. I encourage Professor Goldsmith to allow the sun to shine into the Office of Legal Counsel by disclosing memoranda and opinions to the American public, insofar as such disclosure would not raise legitimate national security concerns.

I hope that, within the context of Professor Goldsmith's temporary appointment, he will look beyond his academic musings and offer the objective legal advice he promised this Senate he would provide. As he develops his legal opinions and advises the administration, I hope that he seriously considers the universally accepted international legal norms that have proven essential in protecting the rights of all members of our global community to freedom, security, and due process of law.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

AUTHORITY FOR COMMITTEES TO REPORT LEGISLATIVE OR EXECUTIVE MATTERS UNTIL 4 P.M. TODAY

Mr. FRIST. Mr. President, I ask unanimous consent that committees have until 4 p.m. today to report legislative or executive matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY FOR COMMITTEES TO REPORT LEGISLATIVE AND EXECUTIVE MATTERS

Mr. FRIST. Mr. President, I ask unanimous consent that notwithstanding the recess, committees be allowed to report legislative and executive matters on Wednesday, October 8, between the hours of 10 a.m. and 12 noon.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY TO SIGN ENROLLED BILLS OR JOINT RESOLUTIONS

Mr. FRIST. I ask unanimous consent that during the adjournment period of the Senate, the majority leader be authorized to sign duly enrolled bills or joint resolutions.

The PRESIDING OFFICER. Without objection, it is so ordered.

HONORING THE LIFE OF JOHNNY CASH

Mr. FRIST. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 289, H. Con. Res. 282.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 282) honoring the life of Johnny Cash.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. FRIST. I further ask consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relating to the matter be printed in the RECORD, all with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 282) was agreed to.

The preamble was agreed to.

COMMENDING NATIONAL ENDOWMENT FOR DEMOCRACY ON ITS 20TH ANNIVERSARY

CALLING ON PEOPLE'S REPUBLIC OF CHINA TO RELEASE REBIYA KADEER

COMMENDING GOVERNMENT AND PEOPLE OF KENYA

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 300, S. Con. Res. 66; Calendar No. 301, S. Res. 230; and Calendar No. 302, S. Res. 231, en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the concurrent resolution and the resolutions by title.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 66) commending the National Endowment for Democracy for its contributions to democratic development around the world on the occasion of the 20th anniversary of the establishment of the National Endowment for Democracy.

A resolution (S. Res. 230) calling on the People's Republic of China immediately and unconditionally to release Rebiya Kadeer, and for other purposes.

A resolution (S. Res. 231) commending the Government and people of Kenya.

There being no objection, the Senate proceeded to consider the resolutions.

Mr. FRIST. I further ask unanimous consent the resolutions be agreed to, the preambles be agreed to, and the motions to reconsider be laid upon the table, en bloc, and that any statements relating to the matters be printed in the RECORD, all with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolutions were agreed to.

The preambles were agreed to.

The resolutions, with their preambles, read as follows:

S. CON. RES. 66

Whereas November 22, 2003, marks the 20th anniversary of the establishment of the National Endowment for Democracy (hereinafter the ''Endowment''), a bipartisan nongovernmental institution that promotes democracy around the world;

Whereas through the National Endowment for Democracy Act (22 U.S.C. 4411 et seq.), signed into law by President Ronald Reagan on November 22, 1983, Congress has made possible the funding of the Endowment's worldwide grant programs;

Whereas 2003 also marks the 20th anniversary of the National Republican Institute for International Affairs (which was subsequently renamed the International Republican Institute (IRI)), the National Democratic Institute for International Affairs (NDI), and the Center for International Private Enterprise (CIPE), all of which joined the Free Trade Union Institute (which was subsequently renamed as the American Center for International Labor Solidarity) to form the four affiliated institutions of the Endowment;

Whereas the Endowment and the affiliated institutes have supported grassroots programs to build democratic institutions, spread democratic values, encourage free market institutions, and promote political parties, worker rights, independent media, human rights, the rule of law, civic education, conflict resolution, political participation by women, and many other essential components of civil society and democratic governance in emerging and transitional democracies, nondemocracies, and war-torn societies;

Whereas the programs carried out or funded by the Endowment have made significant contributions to the efforts of democratic activists to achieve freedom and self-governance around the world;

Whereas the Endowment, through the Journal of Democracy, the International Forum for Democratic Studies, the Reagan-Fascell Democracy Fellows Program, and the World Movement for Democracy, has served as a key center of democratic research, exchange, and networking, bringing together thousands of democracy activists, scholars, and practitioners from around the world; and

Whereas the spread of democracy throughout the world, to which the work of the Endowment has contributed significantly, has enhanced the national security interests of the United States and advanced democratic ideals and values throughout the world: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) commends the National Endowment for Democracy for its major contributions to the strengthening of democracy around the world on the occasion of the 20th anniversary of the establishment of the Endowment; and

(2) endeavors to continue to support the vital work of the National Endowment for Democracy.

S. RES. 230

Whereas Rebiya Kadeer, a prominent businesswoman from Xinjiang Uighur Autonomous Region of the People's Republic of China, was arrested in September 1999, while trying to meet United States Congressional staff;

Whereas the Congressional staff was on an official visit to China organized under the auspices of the Mutual Educational and Cultural Exchange Program of the United States Information Agency;

Whereas Rebiya Kadeer was convicted at a secret trial and sentenced on March 10, 2000, to 8 years in prison for ''illegally giving state information across the border'';

Whereas the newspapers she was carrying with her at the time of her arrest were all available to the public;

Whereas from 1993 to 1998, Rebiya Kadeer was elected as a member of the Provincial People's Political Consultative Conference in Xinjiang;

Whereas in 1995, Rebiya Kadeer was a delegate to the United Nations Fourth World Conference on Women in Beijing;

Whereas Rebiya Kadeer's health is deteriorating in prison and she is finding it difficult to perform her prison labor due to sickness;

Whereas Rebiya Kadeer is the mother of 10 children;

Whereas the United States Department of State has repeatedly expressed concerns about the continued imprisonment of Rebiya Kadeer;

Whereas United States Assistant Secretary of State for Democracy, Human Rights, and Labor, Lorne Craner, visited Xinjiang in December 2002 with the expectation that she would soon be released;

Whereas the day before Secretary Craner's visit to Xinjiang, 3 of Rebiya Kadeer's children were taken into custody and were released later with strict instructions not to talk to anyone about their mother's case;

Whereas Rebiya Kadeer's case was brought up before a hearing of the Senate Foreign Relations Committee on September 11, 2003, by T. Kumar of Amnesty International USA;

Whereas Chinese authorities are ignoring repeated requests from the United States Congress to release her; and

Whereas President Bush is planning to attend the APEC Conference in October 2003, in Thailand and is planning to have meetings with the Chinese President, Hu Jintao, at the Conference: Now, therefore, be it

Resolved, That the Senate—

(1) condemns and deplores the detention of Rebiya Kadeer and calls for her immediate and unconditional release;

(2) urges President Bush to take urgent steps to secure the release of Rebiya Kadeer as soon as possible; and

(3) urges President Bush to demand Rebiya Kadeer's immediate release when he meets with Chinese President Hu Jintao at the APEC Conference.

S. RES. 231

Whereas on December 27, 2002, the Republic of Kenya successfully held presidential, parliamentary, and local elections;

Whereas the elections were widely praised by objective international observers as free and fair;

Whereas the elections signal a major step forward for democracy in Kenya, particularly when compared with other elections held in Kenya since Kenya became an independent state in 1963;

Whereas the transition of power started by the elections culminated on December 30, 2002, when former President Daniel Toroitich arap Moi peaceably transferred the Kenyan presidency to President Mwai Kibaki;

Whereas the people of Kenya have manifested a strong desire to combat the endemic corruption that has crippled Kenyan society for years; and

Whereas the Government of Kenya has responded to this desire with concrete initiatives aimed at fostering transparency and accountability in Kenya: Now, therefore, be it

Resolved, That the Senate—

(1) commends the people of the Republic of Kenya for conducting free and fair elections;

(2) commends the Government of Kenya for the successful completion of a peaceful and orderly transition of power;

(3) expresses its desire to see this new democracy in Kenya thrive;

(4) acknowledges the suffering inflicted on the people of Kenya as a result of terrorist activity and appreciates the assistance and cooperation of Kenya to the global fight against terrorism;

(5) reaffirms the friendship that exists between the people of the United States and the people of Kenya, as 2 nations bound together by the shared values of democracy;

(6) applauds the regional peacemaking efforts of Kenya and the contributions of Kenya to international peacekeeping;

(7) commends the commitment and concrete steps taken by the Government and people of Kenya—

(A) to strengthen democracy, human rights, and the rule of law;

(B) to combat corruption, including through the passage by the Kenyan Parliament of the Public Officer Ethics Bill and the Anti-Corruption and Economic Crimes Bill;

(C) to improve access to education; and

(D) to prevent the transmission of HIV/AIDS;

(8) commits to working with the people of Kenya to continue making progress in combating corruption, encouraging development, fighting HIV/AIDS, and fostering respect for the rule of law and a climate of transparency; and

(9) welcomes the October 2003 visit of Kenyan President Mwai Kibaki to the United States.

EXTENDING THE DURATION OF THE IMMIGRANT INVESTOR REGIONAL CENTER PILOT PROGRAM

Mr. FRIST. I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. 1642, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection it is so ordered. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 1642) to extend the duration of the immigrant investor regional center pilot program for 5 additional years, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. LEAHY. Mr. President, I urge the Senate to pass S. 1642, a bill to extend for 5 years the EB–5 immigrant investor visa regional center pilot program, which lapsed at the end of the fiscal year on Tuesday. I am pleased that Senators BROWNBACK and DASCHLE have joined me in sponsoring this bill. There are more than 25 regions in the Nation that have qualified as a ''regional center'' under this program, including in my State of Vermont. This designation allows them to attract foreign investment by adjusting the standard that investors must meet to obtain legal permanent resident status. The entrepreneurs must still meet a heavy burden, however, showing that their investment will create 10 or more jobs in these relatively depressed areas.

The pilot program is narrowly tailored to avoid fraud. An area seeking regional center status must provide, among other things, detailed information regarding how the center will promote economic growth through improved regional productivity, job creation, and increased domestic capital investment. The applicant must also provide a detailed explanation of why the regional center will have a positive impact on the regional or national economy in general.

The Judiciary Committee approved the language in this bill unanimously, as part of a substitute amendment to S. 1580, the Religious Workers Act of 2003. I am pleased to include an amendment from Senator FEINGOLD that the Judiciary Committee also unanimously approved, calling for a GAO study on the EB–5 program as a whole. Such a study will give us a better idea of how the program is working and what improvements may be needed.

This is an important program for my State and many other regions of the country, and I ask for the support of all Senators in extending it for an additional 5 years.

Mr. FRIST. I ask unanimous consent that the Feingold amendment, which is at the desk, be considered, agreed to, the bill as amended be read three times and passed, the motion to reconsider be laid upon the table with no intervening action or debate, and that any statements related to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 1827) was agreed to, as follows:

AMENDMENT NO. 1827

(Purpose: To require the General Accounting Office to report to Congress on the immigrant investor program)

At the end, add the following:

SEC. 2. GAO STUDY.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the General Accounting Office shall report to Congress on the immigrant investor program created under section 203(b)(5) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(5)).

(b) CONTENTS.—The report described in subsection (a) shall include information regarding—

(1) the number of immigrant investors that have received visas under the immigrant investor program in each year since the inception of the program;

(2) the country of origin of the immigrant investors;

(3) the localities where the immigrant investors are settling and whether those investors generally remain in the localities where they initially settle;

(4) the number of immigrant investors that have sought to become citizens of the United States;

(5) the types of commercial enterprises that the immigrant investors have established; and

(6) the types and number of jobs created by the immigrant investors.

The bill (S. 1642), as amended, was read the third time and passed, as follows:

S. 1642

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PILOT IMMIGRATION PROGRAM.

(a) PROCESSING PRIORITY UNDER PILOT IMMIGRATION PROGRAM FOR REGIONAL CENTERS TO PROMOTE ECONOMIC GROWTH.—Section 610 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1993 (8 U.S.C. 1153 note) is amended—

(1) by striking ''Attorney General'' each place such term appears and inserting ''Secretary of Homeland Security''; and

(2) by adding at the end the following:

''(d) In processing petitions under section 204(a)(1)(H) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(H)) for classification under section 203(b)(5) of such Act (8 U.S.C. 1153(b)(5)), the Secretary of Homeland Security may give priority to petitions filed by aliens seeking admission under the pilot program described in this section. Notwithstanding section 203(e) of such Act (8 U.S.C. 1153(e)), immigrant visas made available under such section 203(b)(5) may be issued to such aliens in an order that takes into account any priority accorded under the preceding sentence.''.

(b) EXTENSION.—Section 610(b) of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1993 (8 U.S.C. 1153 note) is amended by striking ''10 years'' and inserting ''15 years''.

SEC. 2. GAO STUDY.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the General Accounting Office shall report to Congress on the immigrant investor program created under section 203(b)(5) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(5)).

(b) CONTENTS.—The report described in subsection (a) shall include information regarding—

(1) the number of immigrant investors that have received visas under the immigrant investor program in each year since the inception of the program;

(2) the country of origin of the immigrant investors;

(3) the localities where the immigrant investors are settling and whether those investors generally remain in the localities where they initially settle;

(4) the number of immigrant investors that have sought to become citizens of the United States;

(5) the types of commercial enterprises that the immigrant investors have established; and

(6) the types and number of jobs created by the immigrant investors.

AMENDING THE IMMIGRATION AND NATIONALITY ACT

Mr. FRIST. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of H.R. 2152, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2152) to amend the immigration and nationality act to extend for an additional 5 years the special immigrant religious worker program.

There being no objection, the Senate proceeded to consider the bill.

Mr. LEAHY. Mr. President, this House bill is identical to S. 1580, the Religious Workers Act of 2003, of which I am a proud cosponsor. The bill extends for 5 years provisions of our immigration law that provide for special immigrant visas for religious workers sponsored by religious organizations in the United States. These visas allow religious denominations or organizations in the United States to bring in foreign nationals to perform religious work here. This modest program—which provides for up to 5,000 religious immigrant visas a year—was created in the Immigration Act of 1990, and has been extended ever since.

These religious workers contribute significantly not just to their religious communities, but to the community as a whole. They work in hospitals, nursing homes, and homeless shelters. They help immigrants and refugees adjust to the United States. In other words, they perform vital tasks that all too often go undone.

I have worked on this issue over the years, and cosponsored bills in 1997 and 2000 that would have made this program permanent. I still believe that it should be permanent but fully support a 5-year extension as the next best thing. Time is now of the essence as we have entered Fiscal Year 2004 and allowed this program to lapse.

The House passed this bill last month by voice vote. I urge the Senate to follow suit by approving this extension and sending it to the President without further delay.

Mr. FRIST. I ask unanimous consent the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 2152) was read the third time and passed.

ACCOMPLISHMENTS THIS WEEK

Mr. FRIST. Mr. President, at this juncture I wish to take a second to thank everyone for their assistance throughout this week. It has been a busy week. We have accomplished a great deal. Earlier this week we began consideration of the Iraq supplemental request. We made good progress on the supplemental request and, as we had discussed, we will complete action on this request during the first week we return.

We also considered this week the DC appropriations bill. Although I am disappointed we were unable to finish that bill, we had very important debate and discussion, much of which centered around the opportunity scholarships for impoverished children in the District, support for public charter schools, as well as additional support for public schools in the District. We were not successful in passing that bill.

I do want to assure my colleagues that we will be coming back and addressing that important issue of opportunity scholarships for impoverished schoolchildren in the District. We have addressed it and we will continue to address it with the leadership of Mayor Anthony Williams as well as other local leaders.

Last night, we reached an agreement for final passage on a genetic nondiscrimination bill, which I spoke to in detail last night. The vote on final passage of that bill will occur at 2:30 on October 14. Last night, I commended the tremendous work on both sides of the aisle in addressing this legislation, under the leadership in large part of Senator OLYMPIA SNOWE, someone who has been working on this issue for at least 6 years because I know I have been working for at least the last 6 years on that important legislation. We completed debate on it last night. We will vote on it Tuesday, October 14. At that juncture, we will have addressed the issues of civil rights protections and the importance of preventing the use of genetic information in a discriminatory way. I look forward to that vote on October 14.

In addition, this week we passed H.R. 1925, called the Runaway Homeless and Missing Children's Protection bill. This is the House companion bill to Senator HATCH's bill which we passed earlier.

In addition, Chairman SHELBY helped in securing passage of S. 1680, the Defense Production Act. We are grateful for his efforts as this legislation expired earlier this week.

We were also able to pass TANF this week, the Temporary Assistance for Needy Families extension. Senators GRASSLEY and BAUCUS were instrumental in ensuring this was completed on time.

Chairman MCCAIN and the Commerce Committee finished up and the full Senate subsequently passed S. 1261, the Consumer Product Safety Commission reauthorization.

In addition, just a few moments ago, I read S. Con. Res. 66, which was a resolution commending the National Endowment for Democracy for its contributions to democratic development around the world. That resolution has been introduced and addressed because it is the 20th anniversary of the establishment of the National Endowment for Democracy. The sponsor of that resolution was Senator LUGAR.

I just wanted to mention that because I had the opportunity to sit through a board meeting and a review of the important programs the National Endowment for Democracy does, the programs reflecting the tremendous work in promoting democracy in countries all around the world. I am proud this body has passed this very important resolution to commend that organization for the productive and very important work around the world.

Finally, a short while ago, we were able to confirm, along with seven judges from earlier this week, a series of executive nominations. One of these nominations was Randall Tobias to be coordinator of U.S. Government activities to combat HIV/AIDS globally with the rank of Ambassador. This particular position, in essence, is the person in charge, the point person for the United States of America, in terms of our global efforts to address one of the greatest moral, humanitarian, and public health challenges of the last 100

years; that is, the global threat of HIV/AIDS, a little virus that we in this country knew nothing about just 25 years ago in 1980. It never had been in the United States. It didn't exist as a virus. But since that point in time it has taken the lives of over 40 million people, and is likely to take the lives of 10, 20, 30, or 40 more million people. The President of the United States in a bold initiative has committed $15 billion over 5 years to address the humanitarian challenge—a bold initiative, an unprecedented initiative on a single disease, a single entity. Randall Tobias, now Ambassador Tobias, will be the coordinator for that overall effort.

In closing, I thank my colleagues for cooperation during this work period. I encourage all to rest. Most are going back to their home States to be with constituents. I encourage them also to rest their batteries because we will return for a very busy final few weeks of this first session.

ORDERS FOR TUESDAY, OCTOBER 14, 2003

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m., Tuesday, October 14; I further ask that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period of morning business for up to 60 minutes, with the first 30 minutes under the control of Senator HUTCHISON or her designee, and the second 30 minutes under the control of the minority leader or his designee; provided that following morning business the Senate resume consideration of S. 1689, the Iraq-Afghanistan supplemental appropriations bill.

I further ask unanimous consent that the Senate recess from 12:30 p.m. to 2:15 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. FRIST. Mr. President, for the information of all Senators, on Tuesday, October 14, following morning business, the Senate will resume consideration of the Iraq-Afghanistan supplement appropriations bill.

I encourage all Senators who have amendments to come to the floor Tuesday morning to offer those amendments. We will complete action on this bill by the close of the week we return from recess, and Senators should not wait until the last minute to come forward with their amendments.

The bill managers have done a tremendous job in moving this bill forward. They will be here Tuesday morning to continue to work through the remaining amendments. We will complete that bill that week.

Under a previous agreement, at approximately 2:30 p.m. on Tuesday, October 14, the Senate will vote on passage of S. 1053, the Genetic Nondiscrimination Act.

I inform all Members that vote on the passage of S. 1053 will be the first vote of that day. Senators, however, should expect rollcall votes throughout the afternoon as the Senate continues debate on amendments to the Iraq-Afghanistan supplemental appropriations bill.

ADJOURNMENT UNTIL TUESDAY, OCTOBER 14, 2003, AT 9:30 A.M.

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the provisions of S. Con. Res. 71.

There being no objection, the Senate, at 2:40 p.m., adjourned until Tuesday, October 14, 2003, at 9:30 a.m.

NOMINATIONS

Executive Nominations Received by the Senate October 3, 2003:

DEPARTMENT OF TRANSPORTATION

JEFFREY A. ROSEN, OF VIRGINIA, TO BE GENERAL COUNSEL OF THE DEPARTMENT OF TRANSPORTATION, VICE KIRK VAN TINE.

DEPARTMENT OF STATE

EDWARD B. O'DONNELL, JR., OF TENNESSEE, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS SPECIAL ENVOY FOR HOLOCAUST ISSUES.

DEPARTMENT OF JUSTICE

MICHELE M. LEONHART, OF CALIFORNIA, TO BE DEPUTY ADMINISTRATOR OF DRUG ENFORCEMENT, VICE JOHN B. BROWN, III, RESIGNED.

ELECTION ASSISTANCE COMMISSION

PAUL S. DEGREGORIO, OF MISSOURI, TO BE A MEMBER OF THE ELECTION ASSISTANCE COMMISSION FOR A TERM OF TWO YEARS. (NEW POSITION)

GRACIA M. HILLMAN, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE ELECTION ASSISTANCE COMMISSION FOR A TERM OF TWO YEARS. (NEW POSITION)

RAYMUNDO MARTINEZ III, OF TEXAS, TO BE A MEMBER OF THE ELECTION ASSISTANCE COMMISSION FOR A TERM OF FOUR YEARS. (NEW POSITION)

DEFOREST B. SOARIES, JR., OF NEW JERSEY, TO BE A MEMBER OF THE ELECTION ASSISTANCE COMMISSION FOR A TERM OF FOUR YEARS. (NEW POSITION)

FOREIGN SERVICE

THE FOLLOWING-NAMED CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT FOR PROMOTION WITHIN THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED: CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF CAREER-MINISTER:

ELENA L. BRINEMAN, OF VIRGINIA
ROSE MARIE DEPP, OF OREGON
DIRK WILLEM DIJKERMAN, OF VIRGINIA
LUCRETIA D. TAYLOR, OF VIRGINIA
GORDON H. WEST, OF VIRGINIA

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF MINISTER-COUNSELOR:

HARRY FELIX BIRNHOLZ, OF NEW YORK
GEORGE DEIKUN, OF CALIFORNIA
GENE V. GEORGE, OF FLORIDA
RICHARD H. GOLDMAN, OF WASHINGTON
DEBRA DEWITT MCFARLAND, OF FLORIDA
ALLAN E. REED, OF CALIFORNIA
MARK S. WARD, OF VIRGINIA

THE FOLLOWING-NAMED CAREER MEMBERS OF THE FOREIGN SERVICE OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT FOR PROMOTION INTO THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED:
CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR:

MARGARET R. ALEXANDER, OF THE DISTRICT OF COLUMBIA
BRUCE N. BOYER, OF MARYLAND
GERALD ANTHONY CASHION, OF VIRGINIA
JATINDER KAUR CHEEMA, OF VIRGINIA
CARLEENE H. DEI, OF FLORIDA
DAVID A. DELGADO, OF FLORIDA
HELEN KIM GUNTHER, OF TEXAS
ROBERT G. HELLYER, OF CALIFORNIA
JOYCE M. HOLFELD, OF THE DISTRICT OF COLUMBIA
ALAN R. HURDAS, OF VIRGINIA
HOMI JAMSHED, OF CALIFORNIA
JANE NANDY, OF VIRGINIA
ALEXANDER D. NEWTON, OF TEXAS
RONALD E. OLSEN, OF VIRGINIA
ROBERT A. PHILLIPS, OF VIRGINIA
WM. BRENT SCHAEFFER, OF TEXAS
KEITH E. SIMMONS, OF CALIFORNIA
SUSUMO KEN YAMASHITA, OF FLORIDA
MICHAEL J. YATES, OF VIRGINIA

THE FOLLOWING-NAMED CAREER MEMBER OF THE FOREIGN SERVICE OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT FOR PROMOTION INTO THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED:
CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, AND CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

STEPHEN J. HADLEY, OF VIRGINIA

THE FOLLOWING-NAMED CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE DEPARTMENT OF STATE FOR PROMOTION IN THE SENIOR FOREIGN SERVICE TO THE CLASSES INDICATED:
CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF CAREER MINISTER:

KENNETH C. BRILL, OF CALIFORNIA
JAMES B. CUNNINGHAM, OF PENNSYLVANIA
JAMES A. LAROCCO, OF MICHIGAN
W. ROBERT PEARSON, OF CALIFORNIA

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF MINISTER-COUNSELOR:

KAREN AGUILAR, OF CALIFORNIA
KATHLEEN THERESE AUSTIN-FERGUSON, OF THE DISTRICT OF COLUMBIA
JOHN R. BAINBRIDGE, OF MARYLAND
SYLVIA J. BAZALA, OF NEW JERSEY
MARCIA S. BERNICAT, OF NEW JERSEY
DEBORAH ANNE BOLTON, OF PENNSYLVANIA
RENATE ZIMMERMAN COLESHILL, OF FLORIDA
JULIE GIANELLONI CONNOR, OF LOUISIANA
FREDERICK R. COOK, OF ILLINOIS
TIMOTHY JOHN DUNN, OF CALIFORNIA
STEPHEN ANTHONY EDSON, OF KANSAS
CYNTHIA GRISSOM EFIRD, OF NORTH CAROLINA
JAMES A. FORBES, OF NEVADA
J. ANTHONY HOLMES, OF CALIFORNIA
JOSEPH HUGGINS, OF THE DISTRICT OF COLUMBIA
MIRIAM KAHAL HUGHES, OF FLORIDA
JAMES ROBERT KEITH, OF FLORIDA
CRAIG ALLEN KELLY, OF CALIFORNIA
MARY ANNE KRUGER, OF VIRGINIA
HELEN R. MEAGHER LA LIME, OF FLORIDA
JOYCE ELLEN LEADER, OF MARYLAND
ROBERT G. LOFTIS, OF COLORADO
STEPHEN GEORGE MCFARLAND, OF TEXAS
JAMES D. MCGEE, OF INDIANA
ALICE COOK MOORE, OF GEORGIA
JOE D. MORTON, OF MARYLAND
JOHN C. MURPHY, OF VIRGINIA
JOSEPH ADAMO MUSSOMELI, OF TEXAS
MARIANNE M. MYLES, OF NEW YORK
WANDA LETITIA NESBITT, OF PENNSYLVANIA
JOHN JACOB NORRIS JR., OF VIRGINIA
VICTORIA NULAND, OF CONNECTICUT
MAURICE S. PARKER, OF CALIFORNIA
DAVID D. PEARCE, OF MAINE
ROBERT CHAMBERLAIN PORTER JR., OF MAINE
JON R. PURNELL, OF NEW HAMPSHIRE
MARCIE BERMAN RIES, OF TEXAS
CAROL ANN RODLEY, OF MAINE
SANDRA J. SALMON, OF FLORIDA
NANCY MORGAN SERPA, OF NEW JERSEY
THOMAS ALFRED SHANNON JR., OF FLORIDA
MICHELE J. SISON, OF MARYLAND
FREDERICK J. SUMMERS, OF CALIFORNIA
BROOKS A. TAYLOR, OF NEW HAMPSHIRE
CHRISTOPHER WHITE WEBSTER, OF MARYLAND
ELIZABETH A. WHITAKER, OF NEW YORK
SETH D. WINNICK, OF NEW JERSEY
EMI LYNN YAMAUCHI, OF ILLINOIS
JAMES HOWARD YELLIN, OF PENNSYLVANIA
STEPHEN MARKLEY YOUNG, OF NEW HAMPSHIRE
JAMES P. ZUMWALT, OF CALIFORNIA

THE FOLLOWING-NAMED CAREER MEMBERS OF THE FOREIGN SERVICE FOR PROMOTION INTO THE SENIOR FOREIGN SERVICE, AND FOR APPOINTMENT AS CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE, AS INDICATED:
CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATED OF AMERICA, CLASS OF COUNSELOR:

PERRY MASON ADAIR, OF CALIFORNIA
CLAUDIA E. ANYASO, OF THE DISTRICT OF COLUMBIA
ABELARDO A. ARIAS, OF THE DISTRICT OF COLUMBIA
ANTHONY BENESCH, OF MARYLAND
STEPHEN J. BLAKE, OF ILLINOIS
ERGIBE A. BOYD, OF MARYLAND
SAMUEL VINCENT BROCK, OF FLORIDA
MARVIN S. BROWN, OF GEORGIA
MICHAEL ANTHONY BUTLER, OF VIRGINIA
ANNE TAYLOR CALLAGHAN, OF CALIFORNIA
ARNOLD A. CHACON, OF COLORADO
DANIEL A. CLUNE, OF MARYLAND
GENE ALLAN CRETZ, OF NEW YORK

ROBERT LAWRENCE DANCE, OF OHIO
DANIEL DAVID DARRACH, OF TEXAS
CHRISTOPHER J. DATTA, OF THE DISTRICT OF COLUMBIA
PAUL MARTIN DOHERTY, OF CALIFORNIA
ELLEN CONNOR ENGELS, OF VIRGINIA
JAMES FREDERICK ENTWISTLE, OF VIRGINIA
JONATHAN D. FARRAR, OF CALIFORNIA
JEFFREY DAVID FELTMAN, OF OHIO
KATHLEEN M. FITZPATRICK, OF MARYLAND
CAROL S. FULLER, OF PENNSYLVANIA
JUDITH G. GARBER, OF CALIFORNIA
PHILIP S. GOLDBERG, OF NEW YORK
ROBERT GOLDBERG, OF MARYLAND
GARY ANTHONY GRAPPO, OF FLORIDA
RAMONA HARPER, OF FLORIDA
MICHAEL J. HURLEY, OF WASHINGTON
AMY J. HYATT, OF CALIFORNIA
EARL MICHAEL IRVING, OF CALIFORNIA
CHERIE J. JACKSON, OF COLORADO
ROBERT PORTER JACKSON, OF TENNESSEE
TRACEY ANN JACOBSON, OF CALIFORNIA
RICHARD E. JAWORSKI, OF MICHIGAN
NABEEL A. KHOURY, OF NEW YORK
RONALD JAMES KRAMER, OF ILLINOIS
JUNE HEIL KUNSMAN, OF MISSOURI
WILLIAM E. LUCAS, OF MARYLAND
JOSEPH ESTEY MACMANUS, OF NEW YORK
PATRICIA L. MCARDLE, OF CALIFORNIA
M. LEE MCCLENNY, OF WASHINGTON
NANCY E. MCELDOWNEY, OF FLORIDA
JOSEPH SHERWOOD MCGINNIS JR., OF MARYLAND
CHRISTOPHER J. MCMULLEN, OF VIRGINIA
JAMES DESMOND MELVILLE JR., OF NEW JERSEY
W. MICHAEL MESERVE, OF MAINE
PATRICIA NEWTON MOLLER, OF COLORADO
RODERICK W. MOORE, OF RHODE ISLAND
WILLIAM H. MOSER, OF GEORGIA
THOMAS CLINTON NIBLOCK JR., OF TENNESSEE
BRIAN ANDREW NICHOLS, OF RHODE ISLAND
ROBERT LLOYD NORMAN, OF OHIO
NORMAN HARTMAN OLSEN JR., OF MAINE
ANDREW C. PARKER, OF PENNSYLVANIA
ISIAH L. PARNELL, OF FLORIDA
MARIA IFILL PHILIP, OF CALIFORNIA
DAVID A. QUEEN, OF FLORIDA
MARTIN RICHARD QUINN, OF PENNSYLVANIA
MICHAEL BERNARD REGAN, OF NEW JERSEY
DAVID MALCOLM ROBINSON JR., OF CONNECTICUT
TERRI L. ROBL, OF MARYLAND
THOMAS FLAKE SKIPPER, OF NORTH CAROLINA
JAY THOMAS SMITH, OF INDIANA
BARBARA J. STEPHENSON, OF FLORIDA
DONALD GENE TEITELBAUM, OF VIRGINIA
MARGARET A. UYEHARA, OF OHIO
VICENTE VALLE VALLE JR., OF FLORIDA
SHARON ENGLISH WOODS VILLAROSA, OF TEXAS
ROBERT S. WANG, OF CALIFORNIA
KEVIN MICHAEL WHITAKER, OF VIRGINIA
JOSEPH Y. YUN, OF OREGON

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, AND CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

KEVIN MICHAEL BARRY, OF VIRGINIA
GLORIA K. BENEDICT, OF CALIFORNIA
LANNY ROGER BERNIER, OF FLORIDA
HERBERT L. CAMPBELL, OF RHODE ISLAND
ROBERT A. ECKERT, OF PENNSYLVANIA
MICHAEL T. EVANOFF, OF VIRGINIA
JOHN HERBERT FRESE, OF VIRGINIA
KAY E. GOTOH, OF VIRGINIA
MICHAEL J. KOVICH, OF MICHIGAN
CHARLENE RAE LAMB, OF FLORIDA
ATHENA M. MOUNDALEXIS, OF TENNESSEE
PAUL T. PETERSON, OF FLORIDA
JUSTINE M. SINCAVAGE, OF PENNSYLVANIA
KENNETH L. STANLEY, OF CALIFORNIA
STEVEN C. TAYLOR, OF ALASKA

CONFIRMATIONS

Executive nominations confirmed by the Senate October 3, 2003:

INTERNATIONAL JOINT COMMISSION, UNITED STATES AND CANADA

DENNIS L. SCHORNACK, OF MICHIGAN, TO BE COMMISSIONER ON THE PART OF THE UNITED STATES ON THE INTERNATIONAL JOINT COMMISSION, UNITED STATES AND CANADA.

DEPARTMENT OF HOMELAND SECURITY

PENROSE C. ALBRIGHT, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF HOMELAND SECURITY.

DEPARTMENT OF ENERGY

RICK A. DEARBORN, OF OKLAHOMA, TO BE AN ASSISTANT SECRETARY OF ENERGY (CONGRESSIONAL AND INTERGOVERNMENTAL AFFAIRS).

DEPARTMENT OF STATE

RICHARD EUGENE HOAGLAND, OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF TAJIKISTAN.

PAMELA P. WILLEFORD, OF TEXAS, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO SWITZERLAND, AND TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE PRINCIPALITY OF LIECHTENSTEIN.

JAMES CASEY KENNY, OF ILLINOIS, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO IRELAND.

RANDALL L. TOBIAS, OF INDIANA, TO BE COORDINATOR OF UNITED STATES GOVERNMENT ACTIVITIES TO COMBAT HIV/AIDS GLOBALLY, WITH THE RANK OF AMBASSADOR.

W. ROBERT PEARSON, OF TENNESSEE, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE DIRECTOR GENERAL OF THE FOREIGN SERVICE.

WILLIAM CABANISS, OF ALABAMA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE CZECH REPUBLIC.

DAVID L. LYON, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO BE AMBASSADOR TO THE REPUBLIC OF KIRIBATI.

RODERICK R. PAIGE, OF TEXAS, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE THIRTY-SECOND SESSION OF THE GENERAL CONFERENCE OF THE UNITED NATIONS EDUCATIONAL, SCIENTIFIC, AND CULTURAL ORGANIZATION.

H. DOUGLAS BARCLAY, OF NEW YORK, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF EL SALVADOR.

ROBERT B. CHARLES, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF STATE (INTERNATIONAL NARCOTICS AND LAW ENFORCEMENT AFFAIRS).

DEPARTMENT OF HOMELAND SECURITY

C. SUZANNE MENCER, OF COLORADO, TO BE THE DIRECTOR OF THE OFFICE FOR DOMESTIC PREPAREDNESS, DEPARTMENT OF HOMELAND SECURITY.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

DEPARTMENT OF JUSTICE

JACK LANDMAN GOLDSMITH III, OF VIRGINIA, TO BE AN ASSISTANT ATTORNEY GENERAL.

DANIEL J. BRYANT, OF VIRGINIA, TO BE AN ASSISTANT ATTORNEY GENERAL.

MAURICIO J. TAMARGO, OF FLORIDA, TO BE CHAIRMAN OF THE FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES FOR A TERM EXPIRING SEPTEMBER 30, 2006.

JOHN FRANCIS BARDELLI, OF CONNECTICUT, TO BE UNITED STATES MARSHAL FOR THE DISTRICT OF CONNECTICUT FOR THE TERM OF FOUR YEARS.

KARIN J. IMMERGUT, OF OREGON, TO BE UNITED STATES ATTORNEY FOR THE DISTRICT OF OREGON FOR THE TERM OF FOUR YEARS.

FOREIGN SERVICE NOMINATION OF PAMELA A. WHITE.